



# Process Analysis for Disposal of Surplus Property

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in cooperation with  
Kentucky Transportation Cabinet  
Commonwealth of Kentucky

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**Research Report**  
KTC-18-23/SPR18-56-6-1F

**Process Analysis for Disposal of Surplus Property**

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<b>16. Abstract</b> <p>The Kentucky Transportation Cabinet (KYTC) frequently acquires property to secure the right of way for transportation projects. Some property may eventually be declared excess and deemed surplus, enabling the Cabinet to dispose of it. Excess property can be declared surplus by an official order of the Secretary or Commissioner of the Department of Highways. Current law and policy require that KYTC undertake a 21-step process to dispose of surplus property, including reviews by the Governor, Finance and Administration Cabinet, and several KYTC personnel. The Cabinet lacks the personnel required to undertake the lengthy disposal process. This report provides background on KYTC's surplus property disposal process, including definitions and processes with information drawn from the Right of Way Guidance Manual, and explores methods of surplus property disposal used in other states. It highlights which aspects of the disposal process other transportation agencies have outsourced to private consultants. Of the 14 states examined, several aggressively pursue the disposal of surplus property and employ consultants to assist with various facets of the process, including surveying, preparing land or legal descriptions, mapping and inventorying excess parcels, and selling property. The Appendix includes a sample Request for Proposals (RFP) template KYTC may considering using if it plans to re-train a consultant to assist in any or all aspects of the surplus property disposal.</p>					
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## Executive Summary

Like other state departments of transportation (DOTs), the Kentucky Transportation Cabinet (KYTC) acquires properties in order to secure the right of way for transportation projects. Sometimes, properties obtained for this purpose are unneeded. KYTC classifies properties that are not needed for right of way purposes as excess. Once property is declared excess it may be deemed surplus by an official order of the Secretary or Commissioner of the Department of Highways. Certifying a property as surplus is a lengthy process. It requires detailed reviews that ascertain why it is no longer needed, demonstrate that it will not be needed for future Cabinet projects, and verify that its disposal will not expose the general public to hazardous conditions. Property designated as surplus may be sold. Disposing surplus property is critical for ensuring taxpayers receive the highest possible return on their investment. Properties sold to private individuals brings the added benefit of returning them to the tax rolls. KYTC has four methods through which it sells or transfers surplus property: 1) private purchase (i.e., direct sale); 2) conveyance; 3) public auction; and 4) sealed bid. Generally, private purchases stem from a private citizen inquiring about the availability of a land parcel owned by the Cabinet. Conveyance entails the sale or transfer of property to a public entity (e.g., local government). The method is prioritized so long as the property remains in public use and its conveyance is in the best interests of Kentucky. KYTC also has the option of disposing of property through a public auction if a parcel's size, value, location, and level of interest among potential buyers warrant doing so. Disposing of property through a sealed bid process involves, broadly, the same procedures used for public auctions. Once a property is sold, the funds are deposited in the appropriate accounts. For example, if a property was acquired as part of a bond-funded project, revenue from the sale is credited to outstanding bonds or the Road Fund; on federal projects, revenue is split, with the federal share going toward Title 23-eligible projects and the state share placed in the relevant account.

To determine whether KYTC could improve the process through which it disposes of surplus property, a Kentucky Transportation Center (KTC) research team examined the regulations, policies, guidance, and practices other state DOTs rely on to determine whether property is surplus and their disposal processes. Fourteen agencies from around the United States are profiled in this report. Most agencies use the same suite of methods to convey property — sealed bids, oral auctions, or direct sale. While most agencies turn to a competitive bidding process to dispose of properties, direct sales are common, especially when a parcel is being sold to an adjoining landowner, it has a negligible value, or cannot support independent development. In some cases, property may be conveyed to public entities free of charge. Most often, they buy property at fair market value; if an entity demonstrates that property will be reserved for public use, they may be able to purchase it below market value. There is considerable variability among state DOTs in how aggressively they manage their surplus property disposal programs. A few states do not have active management programs, and properties are disposed of on a case-by-case basis when inquiries are made on a parcel's status. Other state DOTs, such as those in Indiana and Ohio — among others — have established robust property management programs, the goal of which is to clear properties off the respective agencies' books as quickly as possible. The Arizona DOT leverages a unique, holistic approach to handling surplus properties. The Right of Way (ROW) section and Project Manager assigned to a highway construction project engage throughout the project lifecycle to monitor the development of new surplus parcels. Many state DOTs retain consultants to oversee some facet of their surplus property management programs. Functions and activities which have been outsourced include surveying, preparation of land and legal descriptions, appraisals, property sales (e.g., to real estate brokerages, professional auctioneers), mapping and inventorying properties. More and more agencies are taking advantage of web mapping and GIS to catalogue surplus properties. In doing so, they are reaching a wider audience, members of which have the ability to quickly search for and identify the location of available properties. Although evaluating whether state DOTs have been satisfied with the quality of work consultants have done on surplus property management is beyond the scope of this report, given that the use of outsourcing is common — and expanding — it appears that consultants have successfully facilitated surplus property management and

disposal activities where they have been used. With state DOTs having fewer in-house resources available to conduct surplus property management, outsourcing of this work will continue apace.

The appendix of this report includes the full text of all relevant statutes and forms pertaining to the disposal of surplus property in Kentucky. It also contains a sample Request for Proposal (RFP) that could be used to retain consultants for the purposes of inventorying and disposing of surplus right of way. This document can serve as a template for KYTC if and when it decides to outsource some or all of its surplus property management program.

## Chapter 1: Introduction

### Study Overview

The Kentucky Transportation Cabinet (KYTC) frequently acquires property to secure the right of way for transportation projects. Some of this property may eventually be declared excess and deemed surplus so that KYTC may dispose of it. The Right of Way Guidance Manual<sup>1</sup> states that excess property is (ROW-1401, p.2):

- Acquired in connection with a state-funded or federally funded road project, which at the time of acquisition was not needed for right-of-way purposes
- Designated as excess by separate description in the deed to the Commonwealth
- Always outside the proposed right-of-way limits
- Severed from another remainder, denied reasonable access, or changed by the acquisition to the point it has no utility or value to the present owner

Excess property can be declared surplus by an official order of the Secretary or Commissioner of the Department of Highways. Current law and policy require that KYTC undertake a 21-step process to dispose of surplus property, including review from the Governor, Finance and Administration Cabinet, and several KYTC personnel. The Cabinet lacks the personnel required to undertake the lengthy disposal process. This report explores alternative methods of surplus property disposal used in other states. In particular, it focuses on which aspects of the disposal process agencies have outsourced to private consultants.

### Research Objectives

The objectives of this project are:

- Analyze current Kentucky law and KYTC policies and procedures for disposing of surplus property.
- Compile best practices from other state transportation agencies and describe the procedures used to dispose of surplus property. Identify what tasks agencies have outsourced to consultants.
- Develop recommendations compatible with KYTC's current disposal process and a template for a Request for Proposals (RFP) if outsourcing some activities is deemed appropriate.
- Develop recommendations for revising KYTC's current disposal process, including potential legislative changes.

### Structure of the Report

Chapter 2 discusses background information on KYTC's approach to surplus property disposal. Drawing from the Right of Way Guidance Manual, it defines key terms and processes. Chapter 3 reviews surplus property disposal processes used in other states, including Utah, Wisconsin, Montana, Florida, Washington, Ohio, California, Arizona, Nevada, New Mexico, Indiana, and Virginia. This chapter also briefly touches on other noteworthy approaches. Included are several screenshots of online mapping and listing tools. Chapter 4 presents recommendations, based on the review, for enhancing KYTC's surplus property disposal process. Additionally, the Appendix includes a sample RFP template the Cabinet may consider leveraging if it uses a consultant to assist with any or all aspects of the surplus property disposal process.

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<sup>1</sup> <https://transportation.ky.gov/Organizational-Resources/Policy%20Manuals%20Library/RightOfWay.pdf>; referred to hereafter as the Guidance Manual with references to denoted as ROW-XX-XX.

## Chapter 2: Background

The KYTC Division of Right of Way and Utilities is part of the Office of Project Development, which is housed in the Department of Highways. The division participates in the project development process and is responsible for right of way acquisition for transportation projects. Its responsibilities include (ROW-201, p.1):

- Appraisals, appraisal reviews, negotiations, and property management
- Relocations in accordance with the Uniform Act
- Utility and railroad relocations

Some properties acquired through the Right of Way process may not be used to complete a highway project and are thus surplus to KYTC's needs. According to the Guidance Manual Chapter on the *Sale and Disposal of Surplus Real Property* (ROW-1400), KYTC's real property interests can include:

- Right of way acquired in excess of actual needs of highway projects
- Surplus right of way
- Highway maintenance facilities
- Minerals
- Easements

Excess property is property that is not necessary for right of way purposes (see Chapter 1). When excess property is obtained to secure the right of way for a project, KYTC maintains files including Form TC 62-85 (*Notice of Excess Purchase*), a plat, legal description, right of way acquisition deed, and Form TC 62-209 (*Payment Summary*).<sup>2</sup> District right of way superiors review excess property purchases two years after the end of a construction project; this includes filling out Form TC 62-7 (*Checklist for Disposal of Surplus Property*). Excess property files are then sent to the Central Office Division of Right of Way and Utilities. If an assessment indicates excess property may have a future use to KYTC, the chief district engineer notifies the Division of Highway Design, which notes that determination in right of way inventory. Excess property on an active project can also be traded for right of way on the same project if necessary (ROW-1403, p.2).

Excess property or other property interests can be declared surplus by an official order of the Secretary or Commissioner of the Department of Highways (ROW-1403, p.3). As noted in the Guidance Manual this requires a review that determines the reason the property was required is no longer needed, demonstrates it is not needed for any future KYTC purposes, and shows that disposing of the property will not create a hazardous situation for the general public (ROW-1401, p.2). Districts must also review a property for potential disposal if it is eliminated from state maintenance or a recommendation is made to convey the property to another agency or sell to a private individual. If a piece of property can be designated as surplus, a joint District-Central Office review is undertaken. Approval from the Federal Highways Administration is needed if a property was acquired using federal funds (ROW-1402-1, p.1). Lots or buildings owned by the state can also be disposed of, however, the Division of Facilities Support must inspect and salvage anything of value, after which the chief district engineer recommends disposal (ROW-1407, p.1). The aim of selling surplus property is to yield the highest possible return to taxpayers. KYTC receives its authority to dispose of surplus property from several statutes and regulations, including the Code of Federal Regulations (CFR), Kentucky Revised Statutes (KRS), and Kentucky Administrative Regulations (KAR).

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<sup>2</sup> Relevant forms mentioned are also included in the Appendix or are available at:  
[https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-\(TC-62\).aspx](https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-(TC-62).aspx).

Relevant sections are listed in the Guidance Manual (ROW-1401, p.1) and noted here as well. For ease of reference the text of these statutes and regulations are included in the report's Appendix.

- 23 CFR 710.409
- 23 CFR 710.403
- KRS 45A.045
- KRS 45A.080
- KRS 48.710
- 200 KAR 5:306
- KRS 416.670

KYTC uses four methods to sell or transfer property. The Guidance Manual (ROW-1400) contains descriptions of each approach. The four methods are:

- 1) Private purchase of KYTC owned property
- 2) Conveyance
- 3) Public auction
- 4) Sealed bid

Regardless of the disposal method, KRS 45A.045 (4) requires that the final conveyance of any real property be signed by the secretary of the Finance and Administrative Cabinet and approved by the Governor. Generally, excess property is disposed of through either sealed bid or public auction; however, private negotiations are allowed if they are in the public interest. A private purchase of real property is triggered when a private citizen inquires about the availability of a land parcel that is a part of KYTC's right of way. If the person submitting an inquiry is an adjoining landowner, but is not the only fronting adjacent property, they must obtain a waiver of right to purchase from other property owners (ROW-1402-1, p.2). This currently requires a lengthy 21-step process (Figure 1). This process is summarized more succinctly below.

- 1) Private individual inquires about purchasing surplus right of way (originates at district level); that person fills out Section 1 of Form TC 62-8 (*Application to Purchase State Right of Way*).
- 2) Application to purchase is completed with list of required attachments.
- 3) Joint District-Central Office review of Form TC 62-7 (*Checklist for Disposal of Surplus Property*) (30-day maximum).
- 4) Joint District-Central Office review completed (if revisions are needed, return to step 2); includes evaluation by District Environmental Coordinator to assess the environmental effects of disposal involving federal funds (Form TC 58-47 [*Surplus Property- Notification of Environmental Conditions*] and Form TC 58-46 [*Categorical Exclusion Impact Summary Sheet*]).
- 5) District approval by Chief District Engineer.
- 6) Request is submitted to Central Office to dispose of property.
- 7) Central Office reviews all documentation.
- 8) Fair Market Value for the property is determined (either appraisal or Minor Acquisition Review (MAR)<sup>3</sup>).<sup>4</sup>

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<sup>3</sup> The MAR process is detailed in the Guidance Manual Chapter on *Initiating Negotiations* (ROW-702, p. 1-3); <https://transportation.ky.gov/Organizational-Resources/Policy%20Manuals%20Library/RightOfWay.pdf>.

<sup>4</sup> As noted in the Guidance Manual Chapter on *Appraisal Standards* (ROW-602, p. 2-3), a sale that is noncomplex and valued at less than \$10,000 can be done using the MAR process; for properties valued between \$10,000 and \$25,000, the individual purchasing the surplus property can choose to either use MAR or pay for an appraisal. Additional detail on the valuation process can be found in the Guidance Manual Chapter on *Disposal of Existing State Right of Way* (ROW 1402-1, p. 4-5).

- 9) Central Office creates a purchase agreement and has applicant execute agreement and submit a 20 percent deposit of the fair market value.
- 10) District Surplus Property Coordinator sends signed purchase agreement and deposit to Central Office.
- 11) Central Office sends deposit to Division of Accounts (held in escrow until final transfer).
- 12) Official Orders created to declare property as surplus (includes memo, deed of conveyance, and Finance and Administration Cabinet Official Order to declare as surplus and approve creation of conveyance documents).
- 13) Office of Legal Services reviews and approves.
- 14) Department of Highways review; if approved the Commissioner of Highways signs Official Order declaring property as surplus.
- 15) Central Office carries Finance and Transportation Official orders to Division of Accounts to have Official Order stamped.
- 16) Documents transmitted to Finance and Administration Cabinet for approval (includes memo, three copies of the Deed of Conveyance, three copies of the Transportation and Finance Official Order, copy of application, Form TC-62-8, and a copy of either the appraisal or MAR).
- 17) Finance and Administration Cabinet reviews and Secretary of Cabinet approves.
- 18) Governor's review conducted by General Counsel; if approved, Governor signs Deed of Conveyance.
- 19) Central Office sends final deed back to district and district schedules closing.
- 20) Final payment transmitted to Central Office to be deposited with Division of Accounts (20 percent deposit is transferred at this time to surplus property fund).
- 21) Copy of recorded deed sent to Central Office as well as Finance and Administration (copy kept on file for three years, then archived).



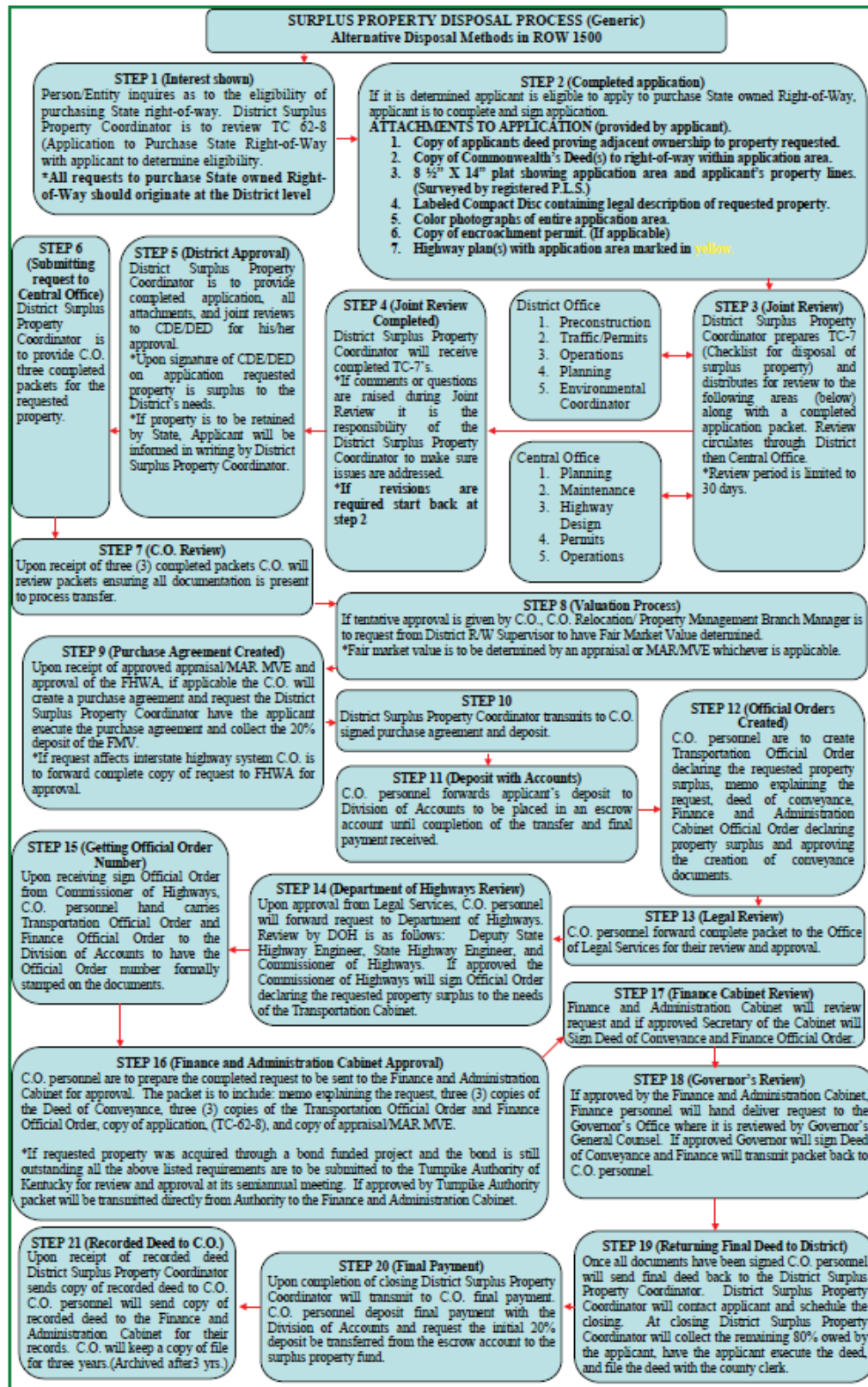


Figure 1 KYTC Surplus Property Disposal Process



Properties acquired by highway purpose deed that are no longer needed by KYTC can also be reviewed and disposed using the same process.

The second method KYTC uses to dispose of real property is the conveyance of the property to another public entity. This method receives priority over other interested parties so long as the property remains in public use and its conveyance is in the best interests of Kentucky (ROW-1402-1, p. 1-2). When the public entity pays fair market value for the property, the process is handled in the same manner as a private request (see above). In some cases, KYTC may convey a property to a public entity for less than fair market value. In this circumstance, the public entity must continue to leverage the property for public use. Conveyance of property will be in accordance with the terms laid out in a restrictive reversion clause element.

KYTC can dispose of surplus property through a public auction when it is judged the best course of action based on a property's characteristics, such as the size, value, location, and the level of interest shown by potential buyers (ROW-1404, p. 1-2). Kentucky state employees or a realtor or auctioneer retained by the Cabinet may conduct an auction. KYTC's Central Office or District Office handles advertisements for the auction. Advertisements must be posted at least seven days before the auction both on the internet and in a local newspaper. When the auction occurs, two KYTC representatives assist with the sale. The winning bidder must post a deposit and sign Form TC 62-9 (*Purchase Agreement Public Sale*), which is then sent for approval by the Commissioner of the Department of Highways or Secretary of the Transportation Cabinet and then to the Finance and Administration Cabinet.

In preparation for a sealed bid sale, KYTC prepares Form TC 62-6 (*Invitation for Bids: Sale of Excess/Surplus Property*) and includes a description and plat with each form (ROW-1403, p.3). Invitations are made available to bidders and the public is notified using the same techniques employed for public auctions. The notice includes pertinent information such as a property description; bid number; and date, time, and location that bids will be opened. Bids are opened with at least two KYTC witnesses present and are conducted as public meetings. Bids are recorded on Form TC 62-43 (*Bid Summary*). The high bidder is notified if their bid is equal to or greater than the appraised value, and that the bid is being recommended for approval by the Finance and Administration Cabinet (ROW-1403, p.5). Processes are in place for dealing with bids that do not meet the appraised value and may include asking all bidders to resubmit, recommending the bid for approval, or opening private negotiations for the appraised value if a bid is high enough to warrant doing so. For small properties that fail to receive bids, a recommendation can be made for private negotiations based on the appraised value (ROW-1403, p.5). Once approved by the Commissioner of Highways the deed is reviewed and approved by Legal Services, the Finance and Administration Cabinet, and the Governor's Office before it is delivered and payment collected.

Funds received from the disposal of surplus property are deposited in appropriate accounts. Once the Division of Right of Way and Utilities collects payment, the funds are deposited with the Division of Accounts, which gives appropriate account credit as defined in ROW-1406. For example, bond-funded projects are credited to any outstanding bonds or to the Road Fund, and federal projects are split with the federal share going to Title 23-eligible projects and the state share credited to the appropriate account. As noted in Figure 1, sales files should be maintained for three years before they are archived at the Kentucky Department for Libraries and Archives.

### Chapter 3: Other States

This chapter describes processes used by other states to dispose of surplus property. Information presented here was compiled from many sources, but primarily state right of way manuals and property management guidance. The survey is not intended to be exhaustive, but to provide a representative glance of how other states approach the challenges of conveying surplus property to public or private entities. Policies from 14 states are discussed here — state summaries are ordered randomly (so as not to imply there is an implicit ranking in their ordering). Following the state summaries, a final section covers innovative techniques for managing and disposing of surplus property used in states which do not receive a full discussion. While agencies tend to use similar techniques for disposing of property, there are differences in how aggressively they work to manage and dispose of inventory as well as their level of reliance on consultants. The extent to which transportation agencies avail themselves of consultants for surplus property disposal varies widely, from some agencies managing the entire process in-house to others outsourcing large portions or even the entirety of their disposal programs.

#### **Utah Department of Transportation<sup>5</sup>**

The Utah Department of Transportation (UDOT) makes a distinction between excess property and surplus property. Excess property is property owned by the agency and is no longer needed for transportation purposes. Property must be designated as excess at the Region level before it can be declared surplus and offered for sale. Property approved as excess at the Region level is reclassified as surplus land only after the agency's Executive Deputy Director signs off on disposing of the property.

Properties move through two workflow processes before they can be marketed. First, a property is reviewed at the Region Level Authorization Process (RLAP) to determine whether it could fulfill any future transportation need. If the property is unneeded for these purposes, it is classified as excess. Once designated as excess, properties undergo a review and approval process at the Complex Level Authorization Process (CLAP) to resolve if it can be declared surplus and sold. In this context, *complex* refers to UDOT's main office in Salt Lake City.

UDOT's published timeline indicates that completion of the RLAP generally takes fewer than 60 days. The process begins once the region Right of Way Engineer/Manager receives an Online Property Inquiry Form request. After receiving this request, they meet with region-level representatives in the following business areas to review the property and acquire the signatures necessary to declare the property as unneeded for future transportation purposes: Traffic Division, Planning Division, Environmental Division, Right of Way Division, and Region Director. Once a parcel is deemed as excess to future transportation purposes in the region, it moves onto the CLAP. Before this occurs, the region Right of Way Engineer/Consultant assembles a Region Excess Property Package that is forwarded to UDOT's main office. As such, while decisions over whether a property should be classified as excess are made at the region level, the agency's main office determines if a property should be declared surplus.

The CLAP kicks off when the main office receives the Region Excess Property Package. At this point, the Right of Way Design Program Manager performs a Conformity Review. Once the Region Excess Property Packages passes this review, a Right of Way Imaging Specialist performs a quality assurance review on plan sheets and maps and the Complex Right of Way Surplus Land Coordinator develops the Complex Surplus Land Disposal Package approval documentation. It is at this point that the Coordinator begins work on property valuation, determines if the first right of refusal has been waived by the original owner, and arranges for the following UDOT Executive staff to authorize the property sale: Right of Way Director, Planning Director, UDOT Deputy Director, and FHWA Program Manager (if the parcel abuts an interstate

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<sup>5</sup> Information, guidance, and manuals pertaining to UDOT's surplus property disposal can be found at: <https://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:4531>.

and/or was acquired with federal money). Once all necessary approvals have been obtained, a property is ready for marketing, other offers on the property can be reviewed, and negotiations commenced. There is no fixed timeframe for the CLAP as the amount of time needed to perform several of the tasks (e.g., obtaining authorizations, marketing) varies among parcels.

Under Utah law, the original property owner has the first right of refusal to buy back a parcel at the original price UDOT paid for it. The secondary workflow associated with this process begins after the Complex Surplus Land Coordinator prepares the Complex Surplus Land Disposal Package approval documentation. If the coordinator determines that the original owner or their heirs has waived the first right of refusal, the process to render it surplus begins. However, if the original owner or their heirs retain the first right of refusal, a 90-day notification letter is sent to inform them the property is available for purchase. If the original owner or their heirs are not located within the 90-day notification period, the Complex disposal process moves forward. Otherwise, UDOT extends an offer to those parties to buy the property. At this point, the original owner or their heirs may either accept the agency's offer or reject it. If the offer is rejected, the Complex disposal process moves on to the next step. When the original owner or their heirs elect to repurchase the property, the Surplus Land Coordinator arranges for closing proceedings. Once the sale is finalized, it is recorded at the County Recorder's Office by the Complex Surplus Land Coordinator.

Utah uses consultants to identify real property in each region that is excess to future transportation needs. Upon identification of excess land, the document is reviewed and signed by the Traffic, Planning, Environmental, and ROW Divisions and the Regional Director. Excess property can be designated as surplus property only when the Executive Deputy Director of UDOT provides a signature of approval to dispose of the property. Once real property is designated as surplus, the property can be sold.

#### **Wisconsin Department of Transportation<sup>6</sup>**

The 2005 Wisconsin Act 392 governs the disposal of surplus property. It mandates that all limited and general marketable surplus are to be offered for sale within two years of project completion. The law also grants right of first refusal to the county, municipality, or local school district a property is situated in, and the Wisconsin Department of Natural Resources, if those entities intend to use a parcel for public use. Once first refusal requirements have been satisfied, the regional property manager begins marketing activities. If a parcel does not sell after one year, a regional office has the option to sell it for less than the appraised value by sealed bid or public option. Table 1 lists the classifications of surplus property types, a description of each type, and the typical method of disposal.

Most of the Wisconsin Department of Transportation's (WisDOT) surplus property is disposed of through public sales. However, if a parcel meets specific criteria it may be sold via private sale. The WisDOT Bureau of Technical Services – Real Estate office surplus land coordinator oversees the statewide program. Individual regions manage their internal surplus property management activities, which include property disposal, site clearance, and leasing activities. Regional-level property managers work with the Division of Transportation System Development/Bureau of Technical Services – Real Estate's (DTSD/BTS-RE) statewide surplus land coordinator to maintain up-to-date records of surplus land available for sale or lease.

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<sup>6</sup> Wisconsin's Real Estate Program Manual can be found at: <https://wisconsindot.gov/Pages/doing-bus/eng-consultants/cnslt-rsrcs/re/repm.aspx>

**Table 1** WisDOT Classification of Surplus Property

Marketing Category	Description	Method of Disposal
<b>General Marketable Surplus</b>	<ul style="list-style-type: none"> <li>• Standalone parcels with independent utility that can be productively used without being appended to another land parcel</li> <li>• Vacant or improved parcels with a perceived or real value in the marketplace</li> </ul>	<ul style="list-style-type: none"> <li>• Most often disposed of through a public sale</li> <li>• If a government agency or entity puts in a claim on a parcel for a qualifying public or transportation-related use, a private sale is acceptable</li> </ul>
<b>Limited Marketable Surplus</b>	<ul style="list-style-type: none"> <li>• Parcels lacking the characteristics required for independent development</li> <li>• Parcels can potentially be adjacent properties</li> </ul>	<ul style="list-style-type: none"> <li>• Most often disposed of through a private sale</li> <li>• Adjacent property owners granted the opportunity to</li> </ul> <p>and bid packets are sent only to adjacent land owners</p>
<b>Non Marketable Surplus</b>	<ul style="list-style-type: none"> <li>• Parcels lacking the characteristics necessary for independent development</li> <li>• Parcels can potentially be combined with only one adjacent property</li> </ul>	<ul style="list-style-type: none"> <li>• Most often disposed of through sale to an adjacent property owner</li> <li>• Procedure for sale is based on assessed value</li> </ul>

Regional directors or a designee of the real estate supervisor have the authority to approve the sale of properties valued less than \$3,000, with regional managers authorized to execute the quitclaim deed. If a property is valued between \$3,000 and \$15,000, the WisDOT Secretary must approve the sale, with a DTSD/BTS-RE manager executing the quitclaim deed. The sale of any property valued at more than \$15,000 requires approval from the governor's office, after which a DTSD/BTS-RE manager executes a quitclaim deed.

After a surplus property is designated for sale or transfer, it receives a project ID and parcel number. Staff then research a parcel's title to verify that a sale can move forward. In most cases, WisDOT-owned right of way held in fee title can be sold at the agency's discretion without concern regarding title issues. If a county acquired right of way for a state trunk highway in easement or fee title to be held in trust for the state, it must transfer the property title to WisDOT before a sale can proceed. Irrespective of the method used to dispose of a property, the sale or transfer of a surplus parcel is subject to regional office management review. While regional offices may have different methods of review, WisDOT requires that a manager, supervisor, or their designees in each of the following business areas submit written comments and a recommendation on each proposed sale: Real Estate, Project Development, Planning, Operations, Traffic, Environment, and Utilities. All surplus parcels must undergo a review for cultural resources impacts as well. The regional director or operations manager issues the final regional-level decision.

Restrictions and other conditions are applied to the transfer or sale of surplus property. At a minimum, WisDOT specifies that all conveyances must include language that preserves the rights of utilities existing on the parcel at the time of sale. Regional offices determine whether a survey is necessary, although legal

descriptions can sometimes be prepared solely with information contained on a right of way plat. Some offices may require a formal survey, however, especially for highly valued parcels. All surplus properties must be appraised before disposal unless the DTSD/BTS-RE surplus land coordinator holds otherwise. Transactions potentially exempt from this requirement are the transfer of wetland mitigation parcels to the Department of Natural Resources or property turned over to a public agency for a qualifying transportation use.

The agency has two methods for establishing surplus property values. The Average Unit of Comparison Method is used if a property is valued at less than \$1,000; it involves determining the average value of a comparable parcel to value property. The Assessed Valuation Method is used to make preliminary value determinations of \$15,000 or less. All appraisals undergo an objective review. Appraisals of \$10,000 or less are reviewed by a regional review appraiser while appraisals greater than \$10,000 are reviewed by a statewide review appraiser. While surplus parcels valued at less than \$3,000 do not require submission of a proposed sale packet to the DTSD/BTS-RE surplus land coordinator for review and approval, for parcels valued above \$3,000, regional offices must prepare a sale packet and submit it to the DTSD/BTS-RE surplus land coordinator for processing. Regional managers have the authority to sign the quitclaim deed a parcel valued at less than \$3,000 is sold; for parcels assessed above \$3,000, BTS-RE management executes this task.

The private sale or transfer of surplus property is only available for 1) conveying property to another governmental body for a qualifying public use, 2) conveying property to another governmental body for transportation-related use, 3) mitigating project-specific damages associated only with the original subject parcel, or 4) the acquisition of parcels for wetland mitigation.

### **Montana Department of Transportation<sup>7</sup>**

Pursuant to Montana Code Annotated (MCA 60-4-2) and 23 CFR Part 710, the Montana Department of Transportation (MDT) has the authority to determine which lands are no longer required for highway purposes, exchange property for other property that can be used for highway purposes, sell property at public auction, or sell parcels valued at less than \$10,000 at private sale if no qualified bids are received at public sale. It can also dispose of property without a public auction directly to federal, state, tribal, or local governments; a government agency; school districts; or the Montana University System. MDT cannot sell property valued at over \$10,000 unless it has been appraised within three months of the proposed sale date. They also cannot dispose of property for less than 90 percent of its appraised value or convey title until it has received the purchase price in full.

MDT's Real Estate Services Section is responsible for reviewing office records to ascertain whether MDT has a marketable title and identifying encumbrances acquired with the title or initiated by the agency. In evaluating whether a parcel can be sold, the Real Estate Services Section submits a plat and accompanying memorandum that discusses the proposed sale to the District Administrator and Maintenance Chief of the area where the parcel is located. This memorandum inquires about whether the parcel will be needed for current or future transportation or other program needs. Like all states, MDT requires FHWA approval for the sale of excess lands purchased in conjunction with the interstate system; if the proposed sale entails the disposal, relinquishment, or alteration of access control on the interstate system; and/or if MDT-FHWA's Partnership Agreement mandates approval. Prior to marketing excess land, MDT also evaluates whether parcels should be retained because they are acceptable for restoring, preserving, or improving the scenic beauty and environmental quality of the landscape adjacent to the highway. Before MDT sells or exchanges any interest in real property, the Environmental Services section completes or assists with the following assessments: Cultural Resource Survey (in conjunction with the state Historic Preservation Office);

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<sup>7</sup> MDT's Property Management manual is located at:  
[https://www.mdt.mt.gov/other/webdata/external/ROW/manual/chapter\\_6.pdf](https://www.mdt.mt.gov/other/webdata/external/ROW/manual/chapter_6.pdf)



identification of environmental hazards, such as spills, underground storage tanks, and asbestos inspections (in conjunction with the Hazardous Waste Bureau); potential wetland mitigation (in conjunction with the Resources Bureau); and any documented environmental controversies.

Parcels valued at \$10,000 or less must be surveyed prior to being conveyed from MDT to the purchaser. For these parcels, it is the purchaser's responsibility to submit a survey to MDT performed by a licensed surveyor. If excess land has a value in excess of \$10,000 the purchaser must furnish the agency with at least two licensed surveyor's bids. MDT then notifies the purchaser of the accepted low bid, the cost of which is deducted from the property's purchase price. For land valued at more than \$10,000, the Real Estate Services Section places a legal notice or advertisement in a newspaper of the county the land is located in. The notification/advertisement must be once a week for a minimum of four successive weeks before the sale. Excess land sales are held at the county courthouse of the county the land is located in (if alternative accommodations are necessary, the change in venue must be announced publicly). The Real Estate Services Section Property Manager or one of their designees conducts the sale. All sales must be by public auction, and no sale will be made for less than 90 percent of the property's appraised value (as noted above).

Private or negotiated sales are acceptable if the excess land is valued at \$10,000 or less and MDT receives the market value. If more than one person expresses interest in a parcel, MDT holds a public auction. Prior to selling excess land directly to a government entity, MDT will notify all landowners who own property adjacent to land proposed for sale, who then have 30 days to notify MDT of their interest. If MDT receives a notice of interest, it offers the land for sale pursuant to MCA 60-4-203. Local governments that have sold or transferred property to the state have the right of first refusal if the state later offers that property for sale. If excess property is sold at a public auction for which a governmental entity has the right of first refusal and it decides to buy it, the entity has three days from the public auction to exercise its rights and submit a 10 percent deposit. When this occurs, MDT notifies the high bidder that a governmental entity has decided to purchase the land and refunds their deposit.

Once MDT's Legal Services Section approves the deed, the Real Estate Services Section conveys the deed to the Governor's office for execution and attestation by the Secretary of State. Once it has been executed, the Real Estate Services Section records the deed in the appropriate county courthouse and sends the original version to the purchaser by mail.

### **Florida Department of Transportation<sup>8</sup>**

Like UDOT, the Florida Department of Transportation (FDOT) differentiates excess property from surplus property. Excess property refers to any property FDOT owns which is located in the current operating right of way limits, but for which the District Secretary or their designee has not determined a future transportation use. Surplus property, on the other hand, is any agency-owned property located outside the current operating right of way limits that has no current transportation use and which the District Secretary or authorized designee has determined lacks a future transportation purpose.

District offices must routinely review and evaluate their inventories of excess and surplus real estate properties. A district office is responsible for verifying that FDOT holds a property's title before declaring it surplus. After confirming FDOT holds the title, the property is reviewed by all appropriate offices, including Drainage, Maintenance, Planning and Environmental Management, Traffic Operations, and Surveying and Mapping. Each office comments on the property's suitability for being deemed surplus. Comments are forwarded to the District Secretary or their designee along with a request for surplus designation. If property owned by FDOT is not currently being used or anticipated to be used as part of the construction, operation, maintenance, or mitigation of a transportation facility and is not located within a

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<sup>8</sup> FDOT's Right of Way Manual contains a chapter on surplus property disposal, which can be found at: <http://www.fdot.gov/rightofway/documents/rowmanual/ch10s05.pdf>

transportation corridor, and access to and from the property will not create a danger to the traveling public, the agency is to dispose of the property. The District Secretary or their designee is responsible for declaring property as surplus. Once a property becomes surplus, the district office begins its efforts to dispose of the agency's interest in the property.

FDOT also has guidelines for disposing nuisance properties. Nuisance properties are those whose continued ownership will result in high maintenance costs or expose the agency to significant liability risks. If a review finds the potential for either significant maintenance costs or liability risks, a district can use the projected maintenance costs over the next 10 years to offset the market value in establishing a value for disposal of the property — even if that value is zero.

After a property has been classified as surplus, the District Right of Way Manager or their designee decides whether FDOT or a potential purchaser should obtain an estimate of the property's value — different appraisal and review requirements apply for when a potential purchaser initiates disposal action and when FDOT initiates the disposal. Irrespective of how the disposal action was brought about, properties assessed at \$50,000 or less can be valued by an agent's price estimate, staff appraiser, or independent appraisal, whereas a property valued at more than \$50,000 must be evaluated by FDOT-approved appraisal. Districts have the option of consulting with a real estate broker or auction company to assist with the marketing and disposal of surplus property. When conducting negotiations, districts are instructed to consider all of the appraisals it has received. However, the sales price should not be less than the lowest acceptable appraisal.

FDOT has the authority to sell surplus property by bid as long as it advertises in a local newspaper the property at least 14 calendar days prior to the last day of the auction or date of bid opening. Advertisements include the cost of obtaining appraisals, which are in addition to the bid price. All bidders may inspect properties listed for sale before the last day of the auction or the date of the bid opening. The winning bidder pays costs related to recording conveyance of the property in the county of record and providing a copy of the recorded deed to FDOT within 30 days of closing. If the agency receives no bids at or above a property's estimated value, it reserves the right to withdraw a property. However, the District Secretary or their designee may approve the highest bid received, which is then treated as the property's market value. FDOT advertises properties valued at more than \$10,000. In the case of negotiated sales, advertisements serve as notification that a property will be sold by negotiation. On negotiated sales, the agency must begin negotiations at no less than the estimated value. If negotiations result in an amount less than the estimated value, the District Secretary or their authorized designee must approve the negotiated amount, which is then treated as the property's market value. If a property acquired through eminent domain on or after 11 May 2006 is undergoing disposal, the original property owner can repurchase the property at the same price FDOT paid them for it.

FDOT may convey property to another governmental agency or entity for a public purpose at no cost unless legislation or bond provisions stipulate otherwise. It can also offer a right of first refusal to a local government or other political subdivision in the jurisdiction the parcel is located in. A local government or other entity has 10 days to respond if they want to acquire the property. If the entity identifies a public purpose for the property, it may be conveyed without payment. But if it cannot identify a public purchase, the entity may acquire the property at the value established by FDOT. The right of first refusal cannot be offered in the following circumstances: property where a public sale would be inequitable to an abutting owner; property donated to the state for transportation purposes where the facility has not been constructed for a period of at least five years, there are no plans for future construction, and the property is not located in a transportation corridor; or property acquired to provide replacement housing for people displaced by transportation projects, in which case that property may be sold by negotiation to displaced people for whom the property was acquired.



FDOT prepares all closing documents. If the agency is using closing documents prepared by a purchaser, the Office of General Counsel must review and approve them while the District Right of Way Supervisor must review the legal description. All revenue collected from the disposal of surplus property is deposited in the State Transportation Trust Fund, except for Turnpike Enterprise revenues, which are deposited into the Turnpike General Reserve Trust Fund.

### **Washington State Department of Transportation<sup>9</sup>**

The Washington State Department of Transportation (WSDOT) can sell unneeded property or exchange it in full or partial consideration for land or building improvements or for construction of highway improvements for fair market value. The agency can dispose of property to any of the following entities: other state agencies; the city or county the property is located in; any other municipal corporation; regional transit authorities; a former owner from whom the state acquired title; for residentially improved property, a tenant of the department who has lived on the property for at least six months and who is not delinquent on rental payments; any abutting private landowner; any other owner of real property required for transportation purposes; a nonprofit organization focused on providing affordable housing; or a federally recognized Indian tribe within whose reservation boundary the property lies. WSDOT is also authorized to convey land to another government agency in exchange for no money if the property's intended use is for highway purposes.

Although WSDOT Headquarters (i.e., the central office) gives the final approval for disposal, method of disposal, and value of surplus property, regional offices determine whether a property is no longer needed by the agency through the completion of an electronic disposal review that includes both region and headquarters reviewers and appointing authorities. The Region Property Management Agent (PMA) oversees each proposal's application, title verification, drafting a legal description, request necessary any plan revisions, complete the property review, prepare a value determination (using either an appraisal or value memo). If there are no appraisal staff available to evaluate a property's value, the Region PMA and Headquarters Disposal Supervisor check statewide availability. Valuations can be done by internal staff or a fee appraiser in the area where the property is located. If NEPA is triggered, the PMA also notifies the regional Environmental Services, and relevant documentation is filled out during the Real Estate Services Electronic Review System Process.

For non-limited access facilities and what are termed specific sundry sites (e.g., pit sites) proposals are reviewed by several disciplines — Environmental, Public Transportation/Planning, Roadside Services/Landscape, Local Programs, Area Operations Manager, Developer Services, Region Access, HW highway access reviewer, Utilities, Maintenance, Hydraulics, Traffic, and Region Right of Way plans). Once all of the necessary reviews have been completed and approvals from region staff are obtained, plans revised, and property value established, Headquarters notifies local jurisdictions, prepares and completes conveyance documents, and wraps up any other tasks. For limited access facilities, proposals are reviewed by the disciplines itemized previously as well as the Headquarters Access reviewer. For Interstate facilities, proposals undergo standard reviews, Special Circumstance Reviewers, Headquarters Access, Headquarters Right of Way Plans, and FHWA.

WSDOT uses several methods to dispose of surplus property — trade or exchange, direct sale, and auction sales. The Region Real Estate Services Manager reviews and approves project lands slated for trade or exchange. They also coordinate development and approval of an appraisal or value memo to determine a parcel's value. WSDOT can enter into exchange agreements for environmental mitigation purposes with local, state, or federal agencies; tribal governments; or private nonprofit nature conservancy corporations. Headquarters Property Management staff negotiate all direct sales, although if there are special

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<sup>9</sup> WSDOT's Right of Way Manual, which contains information on property management and disposal, can be found at: <https://www.wsdot.wa.gov/Publications/Manuals/M26-01.htm>

circumstances, a regional office can negotiate a sale. For sales to abutting owners, the agency mails a written offer to sell a parcel to all adjoining owners. If no abutting owner expresses interest, WSDOT uses other disposal methods. If more than one abutting property owner has interest in buying a property, it is sold at public auction. For auction sales, sealed or oral bidding is acceptable, and they are conducted pursuant to Revised Washington Code (RCW) 47.12.283, which states WSDOT is to issue a notice of a prospective sale before holding a public sale. Headquarters may elect to list a parcel with a real estate agent at the minimum bid price if it does not sell at auction. The agency also has the option to sell the parcel at a later auction or negotiate a sale for no less than the last advertised minimum bid price. All funds received from parcel sales are deposited in the motor vehicle fund.

### **Ohio Department of Transportation**<sup>10</sup>

The Ohio Department of Transportation (Ohio DOT) specifies that any company, government agency, or person can request the disposal of excess land. However, the agency's district offices must also proactively manage their surplus properties.

District offices process all disposals pursuant to federal and state laws. Before selling a parcel, the Director of Transportation must consult with the Director of the Department of Natural Resources to determine it is suitable for recreational purposes. To determine whether a parcel should be sold, the District Planning and Engineering Administrator and the District Highway Management Administrator first conduct a review. The purpose of the review is to determine whether a parcel is needed or will potentially be needed by Ohio DOT for transportation use. The agency mandates environmental reviews on all disposals, with the Office of Environmental Services having the option to review and approve environmental documents prepared by district offices. After District Administrators review a proposal, the office prepares a plat and legal description of the parcel. No public utility can be required to move or relocate any of its facilities that are located in or on the areas described in any conveyance, transfer, easement, lease, permit, or other instrument. Upon garnering all approvals, the District will have a property valued, which is done in accordance with Ohio DOT's Appraisal Policy and Procedures Section 4501. The Central Office Property Management Section is responsible for fielding any questions from district offices on issues pertaining to legal, technical, or policy matters.

Ohio DOT has a number of requirements in place related to disposal project tracking. District offices maintain a reporting system to track all disposals being processed. Each quarter these offices submit reports on the disposal of excess right of way to Central Office Property Management. They also maintain a separate and complete file for each disposal. Districts must also keep an accurate, up-to-date inventory of excess property within their jurisdiction. The District Real Estate Engineer/Administrator assigns a category status to each excess land parcel and enters it into the district inventory. When determining classifications, staff consider the maintenance costs involved with retaining a parcel. Parcels fall into one of three categories. First, *Hold* indicates that an excess land parcel may be required for a current or future project, that a public agency has expressed interest in acquiring the specific parcel for a public purpose, or that the parcel is being held to optimize future returns. Second, *Available for Sale* signifies a parcel should be processed for disposal as soon as practicable; this category may include small contiguous remnants that have been packaged into a single parcel for sale. The final category is *Negligible*, which typically encompasses small and non-contiguous parcels purchased as uneconomic remnants; they may be re-categorized later and marketed if there is a request to buy them. Districts review and reconcile the total excess land inventory of all projects on a parcel-by-parcel basis at the end of each fiscal year.

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<sup>10</sup> Ohio DOT's policies on surplus policy disposal can be found in the following document:  
<https://www.dot.state.oh.us/Divisions/Engineering/RealEstate/Documents/Manuals/Prop%20Manage/7300%20Property%20Disposal.pdf>

Ohio DOT uses several disposal methods, the choice of which varies based on a parcel's value and the likely grantee. Parcels valued at more than \$20,000 are sold at public auction. Parcels valued at \$20,000 or less can be auctioned or sold to the sole abutting owner through a direct sale, but at a price not less than the appraised value. When a parcel has multiple adjoining owners, each owner has the option to submit a sealed bid. Parcels with a value of \$5,000 or less can be sold at a public auction to the highest bidder regardless of the appraised value (if no abutting owners decide to buy the property). For sales via public auctions, Ohio DOT district offices prepare a notice of sale and place an advertisement once per week for two consecutive weeks in a newspaper of general circulation in the county where the property is located. If a parcel has the potential to bring a high purchase price, the district office develops a sales brochure that is sent to real estate brokers along with the notification of sale. If a parcel generates a lot of interest, Ohio DOT may hire a licensed, professional auctioneer to conduct the sale. Sales are generally conducted onsite, unless other arrangements are made, which should be printed in the notice of sale. Properties valued at over \$20,000 being sold via public auction must elicit a bid equal to or greater than two-thirds of the appraised value for the agency to accept it. However, the agency's director may accept or reject any and all bids less than full fair market value. If a parcel's fair market appraisal is less than \$20,000, Ohio DOT's director can sell the property to the sole abutting owner through a private sale, but not for less than the appraised value. If a parcel is valued at \$5,000 or less and the abutting owners do not express interest in the property, the director can sell the land at public auction to the highest bidder irrespective of its appraised value. Generally, District Deputy Directors are authorized to sign director's deeds on behalf of Ohio DOT's director. Once a bid garners final approval, the sale is not binding until the contract is approved and countersigned by an Ohio DOT official in a district office.

### **Colorado Department of Transportation<sup>11</sup>**

The Colorado Department of Transportation (CDOT) directs region-level office to evaluate parcels and determine whether the agency has a present or future need for them. The Property Management and Region Right of Way staffs jointly negotiate disposals. People or entities who want to acquire a parcel from CDOT or dispute the disposal process or fair market value determination may request a CDOT management review. Successful purchasers pay all disposal costs associated with the sale of excess property, including survey, appraisal, advertising, and closing costs. To determine whether a parcel should be disposed of the Traffic, Maintenance, Access, Design, Planning, Safety, Right of Way, and Environmental functions offer input to verify whether a parcel has an immediate or future need for the agency. Before finalizing the disposal of a property, the following items are submitted to CDOT's Property Management Section: legal description, a signed 128 (Categorical Exclusion Determination), illustration of the parcel being disposed of, documented approval from Region Unit Supervisors, a request from RTD, FHWA concurrence letter (if applicable), appraisal for properties valued over \$5,000 or market analysis for properties valued under \$5,000, review appraisal for parcels valued over \$5,000, fair market value, and an approved TC resolution obtained by the Property Management Section for Excess Parcels.

Once the Property Management Section receives a request to dispose of a property, staff determine whether it should be offered to state agencies, cities, towns, or counties located within the boundaries of the property and obtain the approval of the Transportation Commission. If a property has use for only one abutting owner (or for an easement the underlying fee owner), that owner has the first right of refusal to purchase the property at fair market value. If they do not buy the land, or if CDOT determines that the property or interest is useful to more than one owner or potential owner, political subdivisions within the state have the first right of refusal to purchase or exchange the property at fair market value. For properties valued at less than \$5,000, the agency can dispose of the property through a sale or exchange for nothing less than fair market value. If CDOT cannot sell a property or its interest in a property via sale or exchange within five years, it will vacate the property or interest and title to such property or interest.

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<sup>11</sup> CDOT's Right of Way Manual, which includes details on property management, can be found at: <https://www.codot.gov/business/manuals/right-of-way>

If a parcel is mandated by statute to be sold to an adjoining owner, the property is appraised to determine its fair market value. For sales to the general public, CDOT conducts the sale by auction or sealed bid. For both types of sale, the appraisal or value finding is used to set the minimum acceptable price. If all bids on a property are below the fair market value range, the agency has the option of establishing the fair market value as the highest received bid. If no bids are in the fair market value range, the Property Management Section consults with the region-level office to adjudicate whether the parcel should be sold to the highest bidder or retained for future sale. When more than one adjoining owner expresses interest in a parcel, it is sold by sealed bid or divided and sold to each abutting owner at fair market value. CDOT pays for value findings and appraisals when an excess property has value only to the abutting owner. Value findings for excess properties valued at less than \$5,000 are allowable, but any parcel with a value of \$5,000 or more requires an appraisal by a CDOT-approved certified general contract fee appraiser or an in-house appraiser. The agency may contract with real estate marketing firms if the value of a property and the potential revenue generated from the disposal are sufficiently high. For auctions, CDOT may retain an auctioneer. When sealed bids are used, the Property Management Section assembles bid packages and is responsible for the advertisement and receipt of sealed bids. They review bids and notify the successful bidder.

### **Oregon Department of Transportation<sup>12</sup>**

The Oregon Department of Transportation (ODOT) has established a four-phase process for disposing of its surplus property. Each phase is described below.

#### *Phase I*

ODOT's Property Management Unit sometimes receives requests from interested parties, including individuals, companies, government agencies, non-profit organizations, and from within the agency. Once the Property Management Unit receives a request on a parcel, its status is reviewed by an Agent. The Agent inspects a property to determine access, potential use, physical condition, topography, hazardous materials, and presence of neighborhoods. They look at the feasibility of obtaining septic approval, partitioning, zone changes, and development of access to maximize ODOT's return. If a parcel has been declared surplus within the past three years, it can be sold without garnering further approvals. However, if a parcel has not been deemed surplus, the Region Manager must approve the sale. For parcels not classified as surplus in the last three years, an Agent solicits recommendations from region-level personnel, including the District Manager and Area Manager as well as staff in Planning, Preliminary Design, Environmental, and Geology. Reviewers are to respond within 30 days.

#### *Phase II*

Once the Agent assembles written recommendations from region-level personnel, they forward all of the information received to the Region Manager, who decides whether to retain or dispose of the property. This decision is then forwarded to the Agent, who records the finding and proceeds in accordance with it.

#### *Phase III*

During this phase, if Agents suspect a parcel has environmental contamination they are to contact the Region Hazmat Coordinator for an environmental assessment. Agents also evaluate whether surplus property conforms to local planning requirements for land divisions. Once the city or county planning bodies with jurisdiction over a property approve its sale, the Agent moves ahead with the surplus process. Some local jurisdictions mandate a survey for the purposes of describing, monumenting, and creating a map for partitioning. After completing a survey, the written description is sent to the Right of Way Engineering Unit for review. This unit then produces a description that is used in the deed and as the foundation for the appraisal. Once the Agent receives the final description from the Right of Way

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<sup>12</sup> ODOT's Right of Way Manual, with its information on surplus property management, can be found at: <https://www.oregon.gov/ODOT/ROW/Pages/ROW-Manual.aspx>



Engineering Unit they forward a copy to the Region Right of Way Unit or fee appraiser along with an appraisal request. Parcels obtained by ODOT through the condemnation process after October 1973 are subject to a Right of Repurchase statute (Oregon Revised Statute [ORS] 35.385). If a parcel held by ODOT has not been used after 10 years, the original owner may buy the property at the original purchase price plus 7 percent simple interest per year of state ownership. If any parcel bought for right of way is used, it is not subject to the Right of Repurchase.

#### *Phase IV*

Appraisals are used to determine the values of parcels that will be marketed or sold. Staff appraisers, an appraiser from a region-level office, or a consultant may conduct an appraisal. Preference is given to in-house appraisals; work is contracted out only if a region-level appraiser is unavailable. ODOT's Right of Way Manual details the entire appraisal process. Completed appraisals are sent to the Agent who made the original request. For properties valued at \$20,000 or more, the Agent sends the completed appraisal to Appraisal Review, whereas the Right of Way Programs Manager reviews appraisals for properties valued at less than \$20,000.

ODOT uses an agenda letter to establish, based on the appraisal review, a surplus property's minimum acceptable value and put forward the terms and conditions of sale. The State Right of Way Manager or their designee can approve the agenda letter, however, the Right of Way Programs Manager may approve the letter if the value is at or above the reviewed amount. The State Right of Way Manager approves letters requesting the sale of properties for less than the reviewed amount or if there are complex issues involved.

ORS 270.105 holds that ODOT must solicit public comments on the sale of properties valued at or above \$100,000. The agency prepares a notice of sale for all properties or its interest in them when the asking price is over \$5,000. It can sell or dispose of property or its interest directly to a private party without publishing a notice of sale when the property has minimal value and is useful only to abutting owners or when, due to local land use ordinances, the property cannot be sold to anyone but adjoining property owners. If a surplus property cannot be independently developed and has only one adjacent buyer, or is valued at less than \$5,000, it may be disposed through direct sale. ODOT must give public agencies the first opportunity, after other state agencies. Property agents can decide whether to hold an oral auction or a sealed bid auction. The Right of Way Section must conduct a public auction when 1) it is selling surplus properties valued at over \$5,000 to public persons or 2) selling improvements for removal. Agents conduct auctions with the help of one or more region-level office staff members. Once an auction concludes and a purchaser has been identified, the Agent completes the bid or sales form, collects the deposit, and forwards materials to Right of Way Headquarters

If the Region Right of Way/Program Manager approves, surplus properties can be exchanged for needed right of way if the properties are comparable land in reasonable proximity. ODOT may exchange property for other property of equal value with other public agencies or private parties. Region Managers are also authorized to declare a parcel surplus and exchange it with local public agencies for goods and services (e.g., highway maintenance) that the region can use for operational purposes.

#### **Caltrans<sup>13</sup>**

Caltrans disposes of surplus property as quickly as possible and in a manner consistent with sound business practices and California regulations. The agency's goal is to keep the inventory of available parcels to a minimum. Several methods are used to dispose of real property: internal transfers, public sale, direct sale, private sale, exchange (by Right of Way Contract), functional replacement, direct conveyances, leasing, lease-purchase, transfer of jurisdiction, or private brokers. Ideally, properties should be placed on the

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<sup>13</sup> The Caltrans Right of Way Manual includes material on the disposal of excess lands. It is at: <http://www.dot.ca.gov/hq/row/rowman/manual/>

market within one year of becoming available for sale. Excess property can also be transferred from the Right of Way Department to another Caltrans department (e.g., Maintenance or Administration).

Public sales are generally used to dispose of excess parcels which can be independently developed in a manner that is consistent with the environmental context. Three options are available for public sales: oral auctions, sealed bids, or continuous bids. The method likely to provide the greatest return should be chosen. Caltrans rejects bids that are less than the published minimum, however, if no bids are received, the agency can reanalyze a parcel, factoring in prevailing market conditions and the market approach before relisting the property. The agency recommends offering a property for sale at a price within a range of 75-100% of the public sale estimate. When establishing the minimum bid, the Excess Land Manager is expected to account for demand, a parcel's shape and fit within the surrounding neighborhood, and development potential. Properties that do not sell during the first offering have a marketing plan developed by the Region/District office which describes the marketing approach and justifies the minimum bid for subsequent offerings. If the marketing plan specifies a minimum bid below 75%, the Region/District office asks for a revised public sale estimate. Caltrans also sanctions the use of auctions with an unannounced minimum bid. When this method is used, the public sale estimate and unannounced minimum bid are treated as confidential information, which are not released to prospective bidders or to the general public. The Right of Way Excess Land Branch establishes the minimum bid. This branch has the authority to approve any bid greater than 80% of the unannounced minimum acceptable bid. Bids accepted by the Excess Land Branch that are less than the unannounced minimum bid require justification by a Supervising Right of Way Agent. Unannounced minimum bids must be at least 75% of the public sale estimate.

Caltrans issues a sales notice for all properties being sold via public auction, sealed bid, or continuous bid, with copies of these being mailed to the Division of Accounting, all adjoining property owners, and any other parties interested in purchasing the land. The Excess Land Branch in each District/Region maintains a contact list with the names and addresses of parties that have expressed interest in purchasing state property. The agency recommends innovating in the design of the front cover of sales notices, especially for highly valued properties. Once a parcel is selected for public sale, a sign advertising the sale is posted onsite. During the appraisal and after a property is posted, an Agent physically inspects the property to document its condition for the parcel file. These inspections are done to identify any adverse interests, advertising signs, hazardous materials or waste, persons in possession, or easements. Caltrans encourages aggressive marketing of excess properties and instructs staff to hold at least one open house on improved properties. Upon approval from the Right of Way Headquarters, a private broker can be hired to attain broader exposure for specialized or high-value properties (e.g., office buildings, commercial/industrial properties) than would be possible through the normal sales process. The use of a broker or public auction brokerage is reserved for cases in which previous attempts to publicly sell a property have failed and the Excess Land Branch is confident there are not enough qualified buyers to bring the highest price.

At least two Right of Way Agents must be present when excess property is sold via public auction. Sales may be held onsite or at another location. Likewise, if the sale is done by sealed bid, two agents must participate in the bid opening. The Excess Land Branch can sell idiosyncratically shaped excess parcels as well as fee-owned excess parcels to adjoining owners without competitive bidding. Caltrans typically attains fair market value when it directly sells a parcel to a public agency for public use. The governing body of the public agency a parcel is being sold to must offer a resolution that states the excess land will be used for public purposes.

### **Arizona Department of Transportation<sup>14</sup>**

At the Arizona Department of Transportation (ADOT), the Right of Way Property Management Section manages the inventory of excess lands and oversees their disposal. The following sections classify properties as excess land: Right of Way Acquisition Section, Right of Way Condemnation Section, or Right of Way Property Management Section. As new highway projects are developed, the Right of Way Section works alongside the Project Manager to monitor the development of new excess parcels. ADOT requires that all potential excess parcels be assigned a disposal number and input into the excess land database as soon as possible (e.g., completion of project plans or start of construction). Inventoried parcels are monitored to determine whether and when they can be marketed.

With respect to the disposal sequence, Arizona state laws grants previous owners or their heirs repurchase rights (i.e., first right of refusal) for lands declared excess. The Right of Way Property Management Section obtains the repurchase rights waivers required by ADOT, with only the Section Manager being authorized to sign correspondence related to this procedure. The first step in the disposal process occurs when the Right of Way Property Management Section or District Engineer submits a form which recommends the disposal of excess land and asks for concurrence from all impacted ADOT departments. Next, the Right of Way Property Management Section informs the District Engineer (if they were not involved in the first step) that the disposal procedure has been initiated. This section then puts together a disposal package, which includes a detailed right of way map, record drawings, a legal description and title report, and environmental clearances. If a survey or legal description of the land is necessary to delineate a parcel's boundaries, the Right of Way Property Management Section submits appropriate forms requesting this service to the Right of Way Plans Section. No excess properties can be disposed of until internal ADOT approval has been obtained. To lower liability and maintenance costs, small, low-value parcels are offered to adjoining property owners once they have been classified as excess. High-value parcels are treated with great care and marketed to maximize financial returns, while ADOT instructs that low-value parcels should be disposed of as quickly as possible to minimize costs incurred by the agency.

Values of excess parcels are established through at least one appraisal or market analysis. The Right of Way Property Management Section and Right of Way Project Management Review Appraiser determine which parcels require either an appraisal (for lands valued at over \$50,000 [\$25,000 if federal funds were used]) or market analysis (for lands valued at or below \$50,000 [\$25,000 if federal funds were used]). For parcels that receive an appraisal, the Right of Way Project Management Section Review Appraiser determines if the appraised value is supported by the evidence. If the Section Review Appraiser does not believe the valuation is well-supported, they can procure a second appraisal. When a market analysis is the chosen valuation method, a Right of Way Property Management Section Agent prepares the Market Analysis and Proposed Offer Worksheet, generally using comparable market data from recently appraised nearby properties (if possible). The Director of ADOT may decide it is appropriate to offer a commission to a licensed real estate broker if its clients purchase property.

ADOT may convey excess property to any federal government agency or agency within the state, or any country, city, or town of the state without holding a public auction if the sale is in the public interest and the excess property is used for a public purpose. Agencies or governmental entities are required to submit a letter to ADOT requesting to purchase the excess property and documenting that property is intended for a specific public purpose. The purchasing entity must remit payment within 12 months.

For competitive bid sales, the Right of Way Property Management Section conducts the auction. Prior to their sale, parcels are advertised on the internet and in a newspaper of general circulation in the county they are located in. ADOT representatives maintain a record of sales proceedings, including bid increments and

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<sup>14</sup> ADOT's Right of Way Manual and its section on Property Management are at:  
[https://www.azdot.gov/files/row/Manuals/Right\\_of\\_Way\\_Property\\_Management\\_Manual.pdf](https://www.azdot.gov/files/row/Manuals/Right_of_Way_Property_Management_Manual.pdf)



a record of attendees. If the agency does not receive an offer on a parcel for its appraised value after exhausting all marketing strategies, it can market the property at a value not less than 80% of the approved value. Parcels valued at less than \$10,000 can be disposed of through direct sale (pursuant to Arizona Revised Statute 28-7095). Direct sales are appropriate for selling property to adjoining land owners or underlying fee owners. If neither adjoining property owners nor the underlying fee owners submit an offer at market value, the price can be reduced by up to 20% of the established market value to elicit interest. If after the price reduction adjoining owners do not express interest, a property may be disposed of at the best obtainable price. Excess land sales for parcels valued at less than \$10,000 are done on a cash-only basis, while land valued at more than \$10,000 may be done via credit transaction with the approval of the Right of Way Property Management Section Manager.

### **Nevada Department of Transportation<sup>15</sup>**

The Nevada Department of Transportation (NDOT) defines excess property as being located outside the limits of the existing right of way and which is not needed for any current or future highway purpose, while surplus property consists of all property and property rights that have been approved for disposal by the Transportation Board of Directors. The agency sells land classified as excess to highway needs by public auction/sealed bid or by direct sale at current fair market value. NDOT does not maintain an inventory of surplus properties, rather, it makes judgements on a parcel-by-parcel basis. Responsibility for the disposal of surplus property lies with the Surplus Property Committee, which includes high ranking staffers from various divisions within NDOT (see NDOT *Right of Way Manual*, p. 538, for a complete listing of committee members, and pp. 539-540 for the committee's responsibilities). Requests to dispose of surplus property are made to committee's Chairman. After receiving an inquiry, the District Engineer and Chief Hydraulics Engineer in the district the land is located in receive a request. Requests are forwarded to Right of Way Engineering, which prepares a disposal package for distribution to the Surplus Property Committee and District Engineers before their scheduled meeting. A Property Management Staff Specialist gathers all approvals for disposal once the Surplus Property Committee has made the recommendation to dispose of a property. Before submitting a request to the Transportation Board, environmental approval must be obtained. The Staff Specialist assembles a package of materials (including a Board Memorandum, location map, legal documents, location map and sketch map, direct sale intent to purchase, environmental approval, and Nevada Revised Statutes [NRS] 408.533 and 408.523) that is submitted to the Transportation Board of Directors for approval.

NDOT's *Right of Way Manual* contains guidelines for conducting sales via public auctions, sealed bids, sales to public agencies, direct sales, and exchanges. The agency's Legal Division supplies legal opinions on methods for disposing of surplus lands. Once the decision has been made to sell a parcel at public auction and a minimum bid has been established, a Property Management Agent develops a Notice of Public Auction Sale Brochure. This Agent is also responsible for scheduling and organizing the auction, preparing a description which outlines what items are being sold — land descriptions get pulled from the appraisal report and the minimum bid can be the approved low range from the Appraisal Review Estimate of Value unless stated otherwise. Advertisements detailing the auction are placed in local newspapers. If a property is to be auctioned, NDOT also notifies interested parties through its Public Auction mailing lists. Sealed bids submitted to the agency before a public auction are opened prior to bidding; the highest sealed bid establishes the minimum bid for the auction. An alternative to public auctions is sale by sealed bid. This method of disposal is most often used when land and land improvements are sold together at one time. When deliberating on what type of sale is most suitable for a given property, NDOT generally opts for a public auction if it expects a high number of competitive bids, as this will likely generate the highest return. Approval of the Chief Right-of-Way Agent (in addition to the other stakeholders previously mentioned) is

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<sup>15</sup> NDOT's Right of Way Manual contains information on property disposal and is at:  
<https://www.nevadadot.com/home/showdocument?id=4492>

necessary before selling a parcel via sealed bid. Properties are only sold to other public agencies if the land and improvements are to be used for public purposes, and then only at fair market value. Direct sales typically occur when a public auction or sealed bids is judged uneconomical or impractical because 1) there is no access to the property; 2) the property has value or an increased value only to a single adjoining property owner; or 3) the sale would create an undue hardship for a property owner either because of severance of property from that owner or denial of access to a public highway. Revenue from surplus land disposal is deposited in the State Highway Fund.

#### **New Mexico Department of Transportation<sup>16</sup>**

The New Mexico Department of Transportation Secretary (NMDOT) or their designee is authorized to initiate the process for determining if a parcel should be declared excess. Most often, a member of the public submits a request to deem a property excess. The Property Management Unit (PMU) initiates the sale or exchange of land, improvements, fixtures, and equipment obtained when the agency obtained the right of way, and which are currently in excess of the agency's needs. The following sequence of events is adhered to before disposing of property: 1) a written request to sell NMDOT property submitted to PMU; 2) PMU agents thoroughly analyze a parcel's history, including acquisition documents and its present status; 3) an internal review is conducted if necessary; 4) NMDOT notifies the requester its finding. After completing the internal review process (Step 3), a PMU agent assembles a package, including all supporting data indicating that a parcel has no transportation purpose and its sale is therefore in the public interest, which is sent to the Secretary or their designee for review. If an excess land designation is approved, PMU prepares all relevant document before notifying the requester.

If NMDOT acquires a property through condemnation and it is declared excess, the previous owner (or their personal representative or heirs) can buy the property if the excess determination is made within five years of the property being condemned. If more than five years have passed since condemnation, NMDOT is not obligated to notify the previous owner. Previous owners can purchase the excess property at the original price plus interest (six percent per year over the entirety of the state's ownership, which begins on the date the previous owner receives the final payment for the land). NMDOT mails a letter to previous owners notifying them of the intent to dispose. If the prior owner does not respond within 30 days of this mailing, the agency disposes of the property at public sale via sealed bid or direct sale.

Direct sales are most often used for landlocked properties. Landlocked properties do not have access to public roads and can only be accessed through adjoining parcels. Adjoining landowners may purchase landlocked properties directly from NMDOT. When the agency receives an offer, the PMU Supervisor or their designee may accept, reject, or counteroffer. The PMU Supervisor sends a recommendation for approval to the agency's Secretary or their designee for approval once the buyer agrees to the terms offered. Any property judged as being highly marketable may be conveyed through a negotiated direct sale to ensure NMDOT receives at least the fair market value.

#### **Indiana Department of Transportation<sup>17</sup>**

The Indiana Department of Transportation (IDOT) defines excess land as property acquired with only state funding that is located beyond the right of way limits on approved plans. Conversely, excess right of way is land within the limits of the existing highway right of way, but which is no longer needed. Investigations into whether to declare a parcel as right of way excess begin at the district level after a petition has been received. After a review of the original design plans, if INDOT finds that design features have not changed or the right of way is needed currently or in the future for a transportation project, a parcel will not be

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<sup>16</sup> NMDOT's Right of Way Manual can be found at:

[http://dot.state.nm.us/content/dam/nmdot/Infrastructure/ROW\\_Handbook.pdf](http://dot.state.nm.us/content/dam/nmdot/Infrastructure/ROW_Handbook.pdf)

<sup>17</sup> IDOT's website containing the agency's Real Estate Manual and related guidance are at:

<https://www.in.gov/indot/2493.htm>

deemed excess and therefore not sold. When deciding whether excess land can be sold, district offices review excess parcel packets, which consist of deeds, project plans, and other documents; look at aerial photos of the excess property; perform onsite visits; and take pictures.

INDOT maintains a Land Records System, which inventories excess lands, lands that have been declared and sold as excess, and lands purchased for wetland mitigation or other forms of mitigation. The agency's Central Office Property Management Outreach Team meets with each district every month to review their inventory of property and inventory of excess land. The Central Office Property Management Outreach Team reserves the right to retain an on-call consultant to perform a variety of services (e.g., surveys, preparation of legal descriptions). When the preparation of land descriptions is outsourced to contractors, district offices review them to ensure disposal will not affect operational maintenance of the right of way or future district improvement plans. The District Deputy Commissioner approves or rejects a disposal request. Once the District Deputy Commissioner consents to disposal, the request is reviewed and approved by the District Environment, Planning, and Engineering Division; Central Office Environmental Services; and the Department of Natural Resources. Reviews and approvals are intended to verify the land cannot be used for wetlands and lacks archaeological or historical artifacts or structures that require preservation. Once a district office approves of disposal, plan sheets, transfer documents of the original taking, and legal descriptions of the requested area are sent to Central Office Property Management, which orders an appraisal. Upon receiving all approvals, the Central Office Property Management District Outreach Team prepares an order to be signed by the INDOT Commissioner or their designee. This order affirms the land is excess and approves of the disposal. The agency mandates that excess land must be sold at or above fair market value.

Excess land which adjoins the property it was separated from is first offered to the owner of the abutting property. If the owner does not accept the offer within 30 days, the property is sent to the Indiana Department of Administration real estate contractor for disposal. With approval of the INDOT Commissioner and Governor, excess lands valued at \$4,000 or less can be sold by the agency without advertising or competitive bidding for an amount equal to or greater than the appraised value. If land has a value above \$4,000, if there is more than one prospective buyer for land that has been appraised at \$4,000 or less, or if land will be disposed to another state agency or political subdivision, the Indiana Department of Administration processes the sale. Indiana utilizes a sole-source consultant to inventory and dispose of surplus property through auctions. The consultant works with Indiana DOT through the Department of Administration to dispose of properties. Properties are listed on a surplus website and auctioned off.

### **Virginia Department of Transportation<sup>18</sup>**

At the Virginia Department of Transportation (VDOT), the Property Management (PM) Program Manager is tasked with administering a proactive disposal program. The disposal of property can be initiated via written request or by VDOT. If an outside requestor initiates the process, they pay a \$500 deposit to push the review process forward. If the requester purchases the property, this amount is credited to the purchase price. It is refunded if VDOT declines to sell a property. When properties are large enough to support independent development, a request for determining class type should be made to the Chief Appraiser or their designee. For property located in the Northern Virginia District, the following district-level personnel review proposed disposals: Location and Design Engineer, Traffic Engineer, Environmental Manager, Regional Right of Way Manager, Planning and/or Land Development Engineer, and Regional Utilities Manager. The Environmental Division is included in the circulation of property to ensure it has been subject to an environmental assessment. If one of the district-level disciplines (other than the Residency Area Maintenance Manager and the Programming and Investment Manager) responds that a property should not be sold, their response is submitted to the Division Administrator of its Central Office counterpart for

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<sup>18</sup> VDOT's Right of Way Manual contains extensive guidance on property management and can be found at: [http://www.virginiadot.org/business/resources/Right\\_of\\_way/RW\\_Manual02132012\\_TechRev.pdf](http://www.virginiadot.org/business/resources/Right_of_way/RW_Manual02132012_TechRev.pdf)

further review and determination. After receiving those findings, a request for approval is forwarded to the Director for final review/approval.

PM Agents are responsible for requesting an appraisal from the Chief Appraiser or their designee. Standard appraisal guidance is used to develop all valuations. Residue and surplus property valuations are classified into one of two groups: Class I parcels have legal public access and are sufficiently large to support independent development; Class II parcels require assemblage with an adjoining tract for utility/access. Parcels valued at \$10,000 or more must be appraised by a licensed appraiser. Class determinations are made based on whether a parcel can access necessary utilities. If sewage disposal via a septic waste system is necessary, the property must be inspected by a certified soil scientist. Properties unable to support a septic system are designated a Class II residue or surplus property. When a property is declared Class I, deposits received from interested parties are returned to them along with information on the bidding process for properties offered via public sale. Table 2 summarizes the different sales methods used to dispose of Class I and II properties.

**Table 2** Methods of Disposal for Class I and II Properties (VDOT)

Class	Method	Comments
I		Exchange of land for a proposed project. Requires reconciliation of value between the property acquired and the property conveyed.
	Former Owner Consideration	Convey to former owner at full market value without negotiation or Code Section 33.1-90 as appropriate.
	Public Entity	DGS offer for use of other agencies. Federal government of localities may request conveyance for public use of purchase for development. Reversion clause may be required.
	Public Sale	Requires public sale through sealed bid, auction, or licensed real estate broker and simultaneous listing on VDOT website.
	Negotiated Sale	If public sale fails, property may be sold to anyone through individual negotiation and simultaneously listed on the VDOT website in the Inventory or Property for
II	Administrative Settlement	Exchange of land for a proposed project to adjoining owner(s). Requires reconciliation of value between the property acquired and the property conveyed.
	Public Entity	State agencies, federal agencies, or localities as adjoining owners may request conveyance for public use or purchase for development and are given preference. Reversion clause may be required.
	Negotiated Sale	Preference to original adjacent owner, then other adjacent owners.
	Sealed Bids (Private)	If several adjacent owners are interested.

PM Agents move forward with negotiations once they have received an approved appraisal or Basic Acquisition Report and all issues are resolved. All Class I properties are appraised individually and offered to the original owner before they can be sold to anyone else. Only properties used as part of a settlement by VDOT are exempt from this requirement. If a former owner expresses no interest in repurchasing property, federal or state agencies, local governments, and other public entities retain the right of first refusal. The Virginia Code does not mandate that the Department of General Services be notified about available

property and given a chance to express interest for continued public use. VDOT has adopted this policy as a good business practice, but its continuance remains at the discretion of the agency's director. If neither the former owner nor public agencies wish to purchase a property, the PM Agent offers the property at a public sale. They may negotiate a sale at large if the public sale is not successful.

Public sales are conducted by sealed bid, public auction, or by offering the property through a licensed real estate brokerage firm while it is simultaneously listed on VDOT's website. The Director must approve any offerings made through a broker or private auctioneer. When sealed bid sale is the chosen method, a PM Team Member conducts the sale. VDOT will accept the high bid if it exceeds a property's appraised value. Accepting a bid that is less than 90% of the appraised value requires a written justification of the PM Agent, a recommendation from the PM Program Manager, and the Director's approval. If the agency rejects all bids, the property remains listed on VDOT's website as a negotiated sale. The PM Agent will negotiate with the highest bidder. If they cannot reach an agreement, the agent proceeds to the next highest bidder. This process continues until all bidders have been exhausted, at which point anyone expressing interest can negotiate a sale for the property. The process for public auction sales mirrors that of sealed bid sales. Negotiated sales are used for Class II residue/surplus property and under the conditions described above for Class I residue/surplus property. Negotiations may be conducted with adjacent landowners for these properties. Adjoining landowners are notified of a property's availability and appraised value. If a Class II property is next to lands owned by the state or other public entity or the original owner, the property will be offered to them first.

All surplus property sales must be approved by the Commonwealth Transportation Board. Approval is generally granted before a property is offered for sale and negotiations begin. The PM Program Manager may accept offers that are 75% or more than the appraised value on a Class II property. Offers less than 75% of the appraised value need written justification from the PM Agent, recommendation by the PM Program Manager, and Director approval. A PM Program Manager can dispose of Class I properties with a value of \$10,000 or more within a 10% variance in value. They have discretion in negotiating the sale of Class I property valued at less than \$10,000.

### **Others**

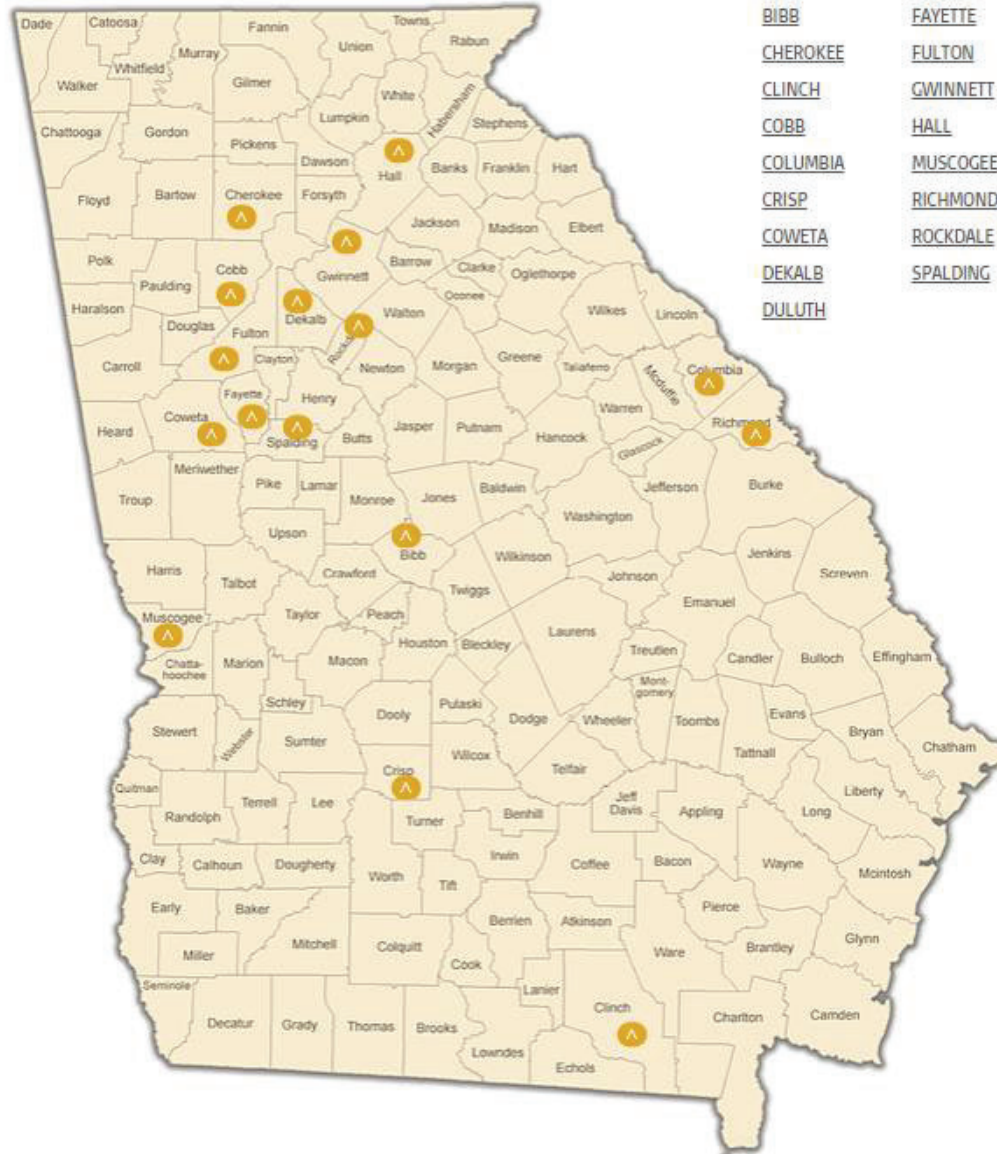
The research team also looked at practices and process innovations at agencies which were not subject to a full review. One of these, the Georgia Department of Transportation (GDOT), uses consultants to identify and catalogue surplus property inventory. The agency's use of consultants dates to 2007, when it first outsourced the cataloguing and mapping of inventory (see Figures 1 and 2). Over the past five years, the role of consultants has continued to grow.



## AVAILABLE PROPERTIES


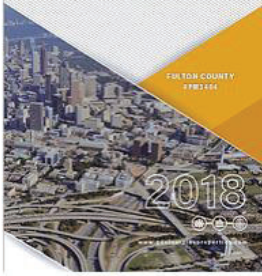
All State of Georgia Surplus Property sale must be conducted according to Georgia Code 32-7-4. This section requires that when property is listed for sale by a State Agency it must be listed for a period of 90 days; Therefore GDOT cannot accept an offer on this property until after that time has run. Offers and negotiations can be done within the 90 day period, but not accepted until the period has expired.

GDOT cannot accept an offer until 90 days after the posting.



**Figure 2** GDOT Surplus Property County Map

POSTED MARCH 15, 2018


**FAYETTE COUNTY PM # 3499**

Approximate 1.456-acre A-R, Agricultural-Residential District tracts at 2771 S. Highway 92, Fayetteville, Georgia.

Tax I.D. No. 0418 025

Approximately 210 feet of frontage on SR 92.

**Tract offered at \$5,824**



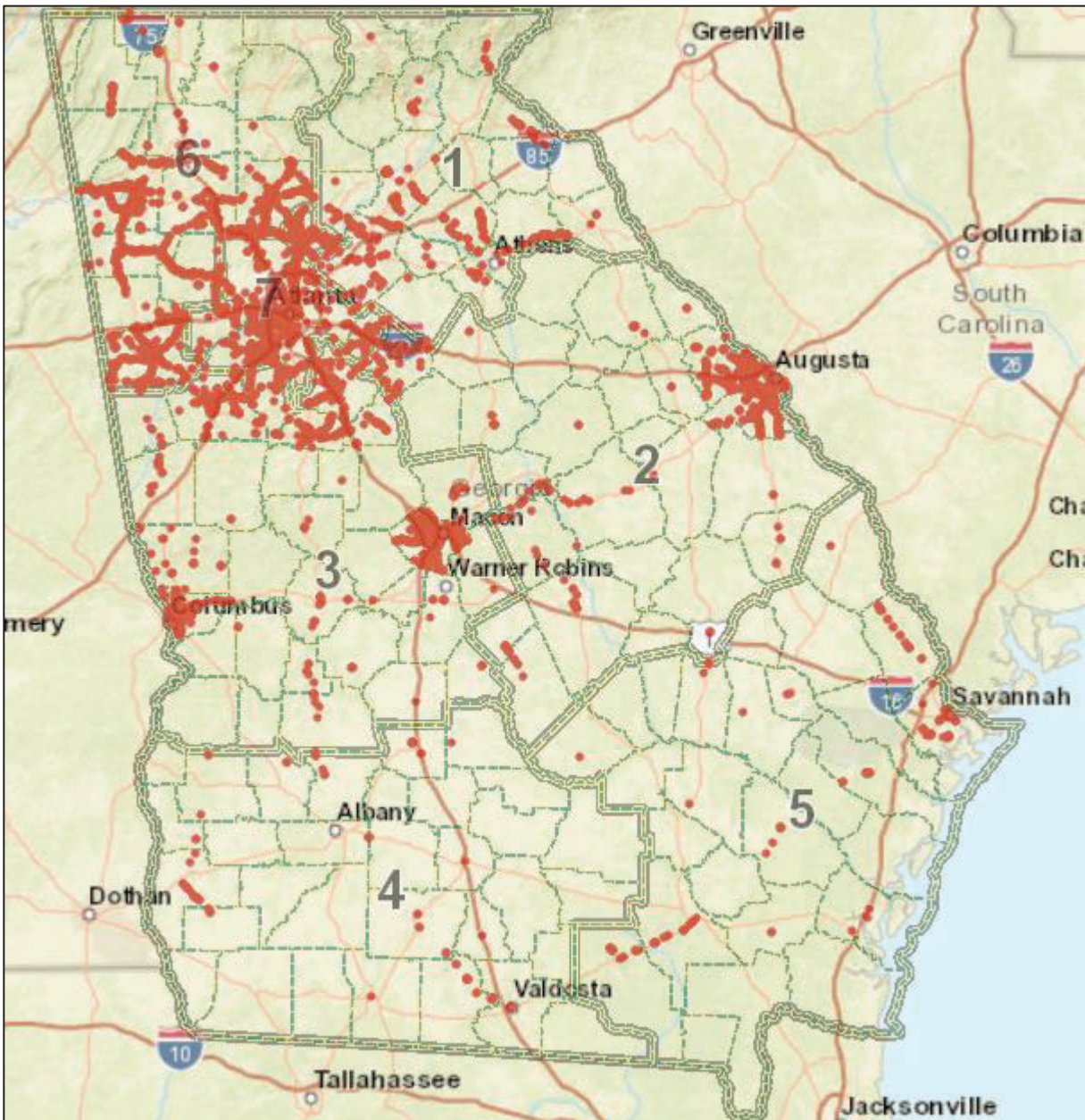
**CONTACT**  
 Harvey Booker  
 Booker Real Estate Services, LLC  
 515 East Taylor Street, Suite B  
 Griffin, GA 30223  
 [O] 770-227-5838 [F] 770-227-1887  
[harveybooker@bellsouth.net](mailto:harveybooker@bellsouth.net)

**Figure 3** GDOT Surplus Property Listing

In 2013, GDOT used a pilot project to first retain a consultant firm to dispose of 12 properties. Since 2014, cataloguing and mapping have been gradually refined through the use of GIS to map parcel data (Figure 3). Consultants have been responsible for improving GIS databases and vetting at least 7,000 properties for disposal over this period. GDOT also has the authority to list properties with real estate brokers.<sup>19</sup>

<sup>19</sup> <https://rightofway.transportation.org/wp-content/uploads/sites/25/2017/06/4.11-AASHTO-Property-Inventory-and-Surplus-Property-Disposal-2017-2.pdf>





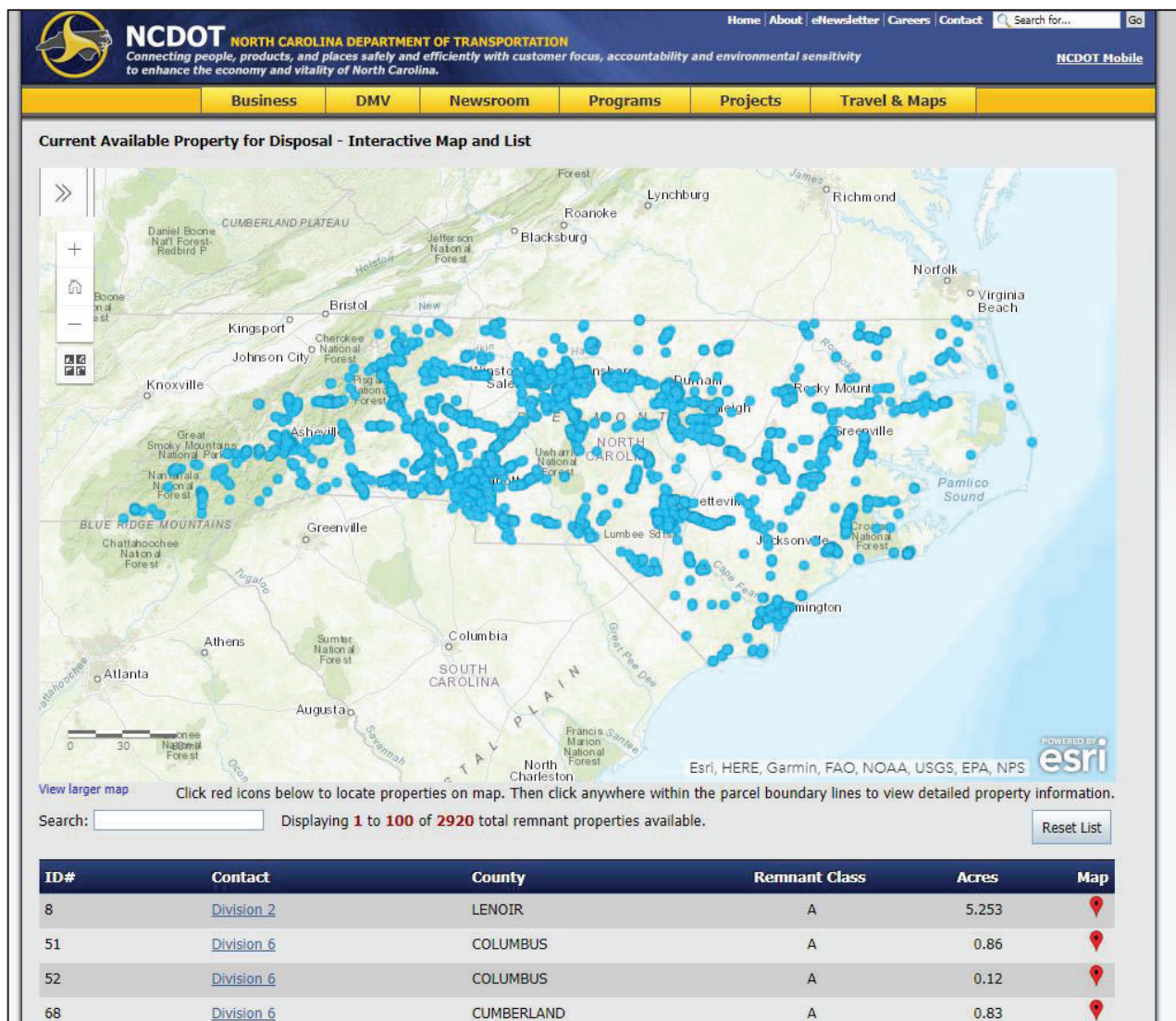
**Figure 4** GDOT GIS Parcel Data Map

State statutes permit the Illinois Department of Transportation to auction excess land or improvements no longer needed for highway purposes. To that end, the agency maintains a property auction catalog<sup>20</sup> listing all properties currently offered for sale. The catalog is organized according to district and for each parcel contains information on its acreage, auction date, sale type, location, minimum sale price, and contact information.

The North Carolina Department of Transportation (NCDOT) is looking into updating its advertising strategies. Advertisements are used to notify the public of an impending sale, and are generally placed in newspapers in the area a parcel is located in. NCDOT is looking to shift away from newspaper advertising

<sup>20</sup> <http://idot.illinois.gov/doing-business/sales/excess-property-sales/index#Catalog>

to web-based advertisements and/or television spots. The agency is also updating its website with an interactive and fully searchable map of all properties available for disposal (Figure 4).



**Figure 5** North Carolina DOT Surplus Property Map

### **Key Takeaways**

A review of the strategies and methods state DOTs use to manage their disposal of surplus property found that agencies rely on the same methods to convey property — sealed bids, oral auctions, or direct sale. Most states rely on a competitive bidding process to sell properties. However, direct sales are common when a parcel is sold to an adjoining landowner or it has a negligible value or cannot support independent development. In some cases, property may be conveyed to public entities (e.g., a government agency) free of charge, although in general these entities must buy property at fair market value. Some agencies manage their surplus property disposal program more aggressively than others. States like Indiana and Ohio, among others, have adopted an aggressive stance, and through a robust management program attempt to clear properties off their books as quickly as possible. The Arizona Department of Transportation leverages a somewhat unique strategy, with the Right of Way section and Project Manager on highway construction projects engaged together throughout the project lifecycle to monitor the development of new surplus parcels as projects progress. Many state DOTs retain consultants to oversee some facet of their surplus

property management programs. Functions and activities which have been outsourced include surveying, preparation of land and legal descriptions, appraisals, property sales (e.g., to real estate brokerages, professional auctioneers), mapping and inventorying properties. While the goal of this project was not to measure agencies' satisfaction with consulting, there is ample evidence to suggest that outsourcing is common, and as such appears to facilitate surplus property management and disposal activities where it is used.



## Chapter 4: Conclusion

Surplus property disposal is an important function of KYTC's Division of Right of Way and Utilities. There are potential improvements that can be made to the current process, thus expediting the disposal of surplus property, which in turn yields funds that can be used for other purposes. Some of these improvements are likely to be undertaken by consultants (see below). Recommended process improvements include:

- Develop a comprehensive inventory of surplus property to communicate its availability to public; maps generated with GIS and other tools can help interested parties easily identify potential surplus property to purchase.
- Develop a website that catalogues and features available surplus property, provides easy access to necessary forms needed to complete a purchase, and includes frequently asked questions.
- Let a consultant handle the application attachments as part of private sales, which the applicant is currently required to complete; closing costs could be used to reflect these activities.
- Consider alternative uses for surplus property that is difficult to dispose of. Surplus property can also have other uses, including mineral rights, solar panels, electrical re-charging stations for electric cars, cell towers, oil and gas rights, fiber optics, parking, and carbon credits.

Reviewing the methods used by other state transportation agencies revealed best practices that KYTC can potentially apply:

- Establish a program goal to dispose of surplus property as expeditiously as possible.
- Explore methods to increase the flexibility of the disposal process, especially as it pertains to the approval of sales. For example, at the Wisconsin Department of Transportation, regional directors or a designee can approve the sale of properties under \$3,000, while the Secretary can approve sales between \$3,000 and \$15,000.

Finally, due to staffing constraints, outsourcing parts or all of the surplus property disposal processes may benefit KYTC. This will help reduce the inventory of surplus property, accelerate the return of funds to taxpayers, and return property to the tax rolls. A sample RFP template has been prepared that contains aspects of all the disposal methods except for conveyance. This template is available in the Appendix and is intended as a starting point when considering outsourcing any or all elements of surplus property disposal. It was based on past RFP's for Right of Way, with changes made to reflect the intent to dispose of surplus property. Modifications may be needed to better define the portions of the disposal processes that KYTC would like to outsource and ensure the appropriate qualifications are required. The desired result is that all surplus property will be disposed of through any of the acceptable means in the Guidance Manual. Other considerations for the Cabinet include determining whether it should retain consultants for the provision of legal services as well as the fee structure used to pay consultants (e.g., fixed fee, fixed fee plus percentage of each property disposed, percentage of each property disposed, or other contracting methods). Scoring mechanisms, which include a combined list from past Right of Way RFPs, also need weighting and perhaps more refinement to yield the most qualified consultants to perform the work.

## Appendix

### **23 CFR 710.409 - Disposal of excess real property.**

#### **§ 710.409 Disposal of excess real property.**

- (a) Excess real property outside or within the approved right-of-way limits or other project limits may be sold or conveyed to a public entity or to a private party in accordance with § 710.403(a), (c), (d), (e), (f) and this section. Approval by FHWA is required for disposal of excess real property unless otherwise provided in this section or in the FHWA-SDOT Stewardship/Oversight Agreement.
- (b) Federal, State, and local agencies shall be afforded the opportunity to acquire excess real property considered for disposal when such real property interests have potential use for parks, conservation, recreation, or related purposes, and when such a transfer is allowed by State law. When this potential exists, the grantee shall notify the appropriate agencies of its intentions to dispose of the real property interests determined to be excess.
- (c) The grantee may decide to retain excess real property to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the transportation facility.
- (d) Where the transfer of excess real property to other agencies at less than fair market value for continued public use is clearly justified as in the public interest and approved by FHWA under § 710.403(e), the deed shall provide for reversion of the property for failure to continue public ownership and use. Where property is sold at fair market value, no reversion clause is required.
- (e) No FHWA approval is required for disposal of excess real property located outside of the approved ROW limits or other project limits if Federal funds did not participate in the acquisition cost of the real property.
- (f) Highway facilities in which Federal funds participated in either the ROW or construction may be relinquished to another governmental agency for continued highway use under the provisions of 23 CFR part 620, subpart B.
- (g) A request for approval of a disposal must demonstrate compliance with the requirements of § 710.403(a), (c), (d), (e), (f) and this section. An individual, company, organization, or public agency requesting a grantee to approve of a disposal of excess real property within the approved ROW limits or other project limits, or to approve of a disposal of excess real property outside the ROW limits that was acquired with title 23 of the United States Code funding, shall submit a written request to the grantee, together with an application supporting the proposal. If the FHWA is the approving authority, the grantee shall forward the request, the SDOT recommendation if the proposal affects a Federal-aid highway, the application, and proposed terms and conditions, together with its recommendation and any necessary supplemental information, to FHWA. The submission shall affirmatively provide for adherence to requirements contained in this section and must include the information specified in § 710.405(e)(1) through (9).



## **23 CFR 710.403 - Management.**

### **§ 710.403 Management.**

(a) As provided in § 710.201(h), FHWA and SDOT may use their Stewardship/Oversight Agreement to enter into a written agreement establishing which approvals the SDOT may make on behalf of FHWA, provided FHWA may not assign to the SDOT the decision to allow any ROW use agreement or any disposal on or within the approved ROW limits of the Interstate, including any change in access control. The assignment agreement provisions in § 710.201(h) and this paragraph do not apply to non-SDOT grantees.

(b) The grantee must ensure that all real property interests within the approved ROW limits or other project limits of a facility that has been funded under title 23 are devoted exclusively to the purposes of that facility and the facility is preserved free of all other public or private alternative uses, unless such non-highway alternative uses are permitted by Federal law (including regulations) or the FHWA. An alternative use, whether temporary under § 710.405 or permanent as provided in § 710.409, must be in the public interest, consistent with the continued operation, maintenance, and safety of the facility, and such use must not impair the highway or interfere with the free and safe flow of traffic (see also 23 CFR 1.23). Park and Ride lots are exempted from the provisions of this part. Park and Ride lots requirements are found 23 U.S.C. 137 and 23 CFR 810.106.

(c) Grantees shall specify procedures in their approved ROW manual or RAMP for determining when a real property interest is excess real property and may be disposed of in accordance with this part. These procedures must provide for coordination among relevant State organizational units that may be interested in the proposed use or disposal of the real property. Grantees also shall specify procedures in their ROW manual or RAMP for determining when a property interest is excess and when a real property interest may be made available under a ROW use agreement for an alternative use that satisfies the requirements described in paragraph (b) of this section.

(d) Disposal actions and ROW use agreements, including leasing actions, are subject to 23 CFR part 771.

(e) Current fair market value must be charged for the use or disposal of all real property interests if those real property interests were obtained with title 23, United States Code, funding except as provided in paragraphs (e)(1) through (6) of this section. The term fair market value as used for acquisition and disposal purposes is as defined by State statute and/or State court decisions. Exceptions to the requirement for charging fair market value must be submitted to FHWA in writing and may be approved by FHWA in the following situations:

(1) When the grantee shows that an exception is in the overall public interest based on social, environmental, or economic benefits, or is for a nonproprietary governmental use. The grantee's ROW or RAMP must include criteria for evaluating disposals at less than fair market value, and a method for ensuring the public will receive the benefit used to justify the less than fair market value disposal.

(2) Use by public utilities in accordance with 23 CFR part 645.

(3) Use by railroads in accordance with 23 CFR part 646.

(4) Use for bikeways and pedestrian walkways in accordance with 23 CFR part 652.

(5) Uses under 23 U.S.C. 142(f), Public Transportation. Lands and ROWs of a highway constructed using Federal-aid highway funds may be made available without charge to a publicly owned mass transit authority for public transit purposes whenever the public interest will be served, and where this can be accomplished without impairing automotive safety or future highway improvements.

(6) Use for other transportation projects eligible for assistance under title 23 of the United States Code, provided that a concession agreement, as defined in § 710.703, shall not constitute a transportation project exempt from fair market value requirements.

(f) The Federal share of net income from the use or disposal of real property interests obtained with title 23 funds shall be used by the grantee for activities eligible for funding under title 23. Where project income derived from the use or disposal of real property interests is used for subsequent title 23-eligible projects, the funds are not considered Federal financial assistance and use of the income does not cause title 23 requirements to apply.

**KRS 45A.045 Authority of cabinet -- Authority to promulgate administrative regulations.**

- (1) The Finance and Administration Cabinet shall serve as the central procurement and contracting agency of the Commonwealth.
  - (a) The cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. The cabinet shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, prior to the beginning of each fiscal year all agencies shall submit to the Finance and Administration Cabinet an estimate of all needs for supplies, materials, and equipment during that year which will have to be required through competitive bidding.
  - (b) The Finance and Administration Cabinet shall have power, with the approval of the secretary of the Finance and Administration Cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.
  - (c) The Finance and Administration Cabinet shall attempt in every practicable way to ensure that state agencies are fulfilling their business needs through the application of the best value criteria.
- (2) The Finance and Administration Cabinet shall recommend regulations, rules, and procedures and shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and, subject to the approval of the secretary of the Finance and Administration Cabinet, shall promulgate administrative regulations to govern purchasing by or for all these agencies. The cabinet shall publish a manual of procedures which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A. This manual shall be distributed to agencies and shall be revised upon issuance of amendments to these procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the Finance and Administration Cabinet or made under general administrative regulations promulgated by the cabinet.
- (3) The Finance and Administration Cabinet shall purchase or otherwise acquire, or, with the approval of the secretary, may delegate and control the purchase and acquisition of the combined requirements of all spending agencies of the state, including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services.
- (4) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of any interest in real property of the state which is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, as determined by the secretary of the Finance and Administration Cabinet. The determination of the secretary of the Finance and Administration Cabinet shall be set forth in an order and shall be reached only after review of a written request by the agency desiring to dispose of the property. This request shall describe the property and state the reasons why the agency believes the

property should be disposed. All instruments required by law to be recorded which convey any interest in any real property so disposed of shall be executed and signed by the secretary of the Finance and Administration Cabinet and approved by the Governor. Unless the secretary of the Finance and Administration Cabinet deems it in the best interest of the state to proceed otherwise, all interests in real property shall be sold either by invitation of sealed bids or by public auction. The selling price of any interest in real property shall not be less than the appraised value thereof as determined by the cabinet, or the Transportation Cabinet for the requirements of that cabinet.

- (5) The Finance and Administration Cabinet shall sell, trade, or otherwise dispose of all personal property of the state that is not needed, or has become unsuitable for public use, or would be more suitable to the public's interest if used in another manner, or, with the approval of the secretary, may delegate the sale, trade, or other disposal of the personal property. In the event the authority is delegated, the method for disposal shall be determined by the agency head, in accordance with administrative regulations promulgated by the Finance and Administration Cabinet, and shall be set forth in a document describing the property and stating the method of disposal and the reasons why the agency believes the property should be disposed of. In the event the authority is not delegated, requests to the Finance and Administration Cabinet to sell, trade, or otherwise dispose of the property shall describe the property and state the reasons why the agency believes the property should be disposed of. The method for disposal shall be determined by the Division of Surplus Properties, and approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (6) The Finance and Administration Cabinet shall exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth. The cabinet shall promulgate administrative regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The cabinet shall conduct periodic physical audits of inventories.
- (7) The Finance and Administration Cabinet shall establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction.
- (8) Nothing in this section shall prevent the Finance and Administration Cabinet from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof. No contract executed under this provision shall authorize a price higher than is contained in the contract between the General Services Administration and the vendor affected.
- (9) Except as provided in KRS Chapters 175, 176, 177, and 180, and subject to the provisions of this code, the Finance and Administration Cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition. The amount paid for this real property shall not exceed the appraised value as

determined by the cabinet or the Transportation Cabinet (for such requirements of that cabinet), or the value set by eminent domain procedure. Subject to the provisions of this code, real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employee of any agency of the state upon a finding by the Finance and Administration Cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the Finance and Administration Cabinet and the Governor, that the employee has not either himself or herself, or through any other person, influenced or attempted to influence either the agency requesting the acquisition of the property or the Finance and Administration Cabinet in connection with such acquisition. Whenever such an acquisition is consummated, the request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

- (10) The Finance and Administration Cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the Finance and Administration Cabinet, the Governor, and the General Assembly. The Finance and Administration Cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities. The Finance and Administration Cabinet shall also compile an annual report of state purchases by all spending agencies in the state's statewide accounting and reporting system. The report format shall include, but not be limited to, dollar amount, volume, type of purchase, and vendor.
- (11) For capital construction projects, subject to the provisions of this code and KRS 45A.180, the procurement may be on whichever of the following alternative project delivery methods, in the judgment of the secretary of the Finance and Administration Cabinet after first considering the traditional design-bid-build project delivery method, offers the best value to the taxpayer:
  - (a) A design-build basis; or
  - (b) A construction management-at-risk basis.Proposals shall be reviewed by the engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Nothing in this section shall prohibit the procurement of phased bidding or construction manager-agency services.
- (12) The Finance and Administration Cabinet shall have control and supervision over all purchases of energy-consuming equipment, supplies, and related equipment purchased or acquired by any agency of the state as provided in this code, and shall promulgate administrative regulations to designate the manner in which an energy-consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years' recovery basis and shall take into consideration the projected cost of fuel. The Finance and Administration Cabinet, in consultation with the Cabinet for Economic Development, shall conduct a thorough economic feasibility analysis on any major energy-using component of at least three



million (3,000,000) BTU's per hour heat input and shall issue a certificate of economic feasibility prior to the Finance and Administration Cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. The economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For the analysis, the Finance and Administration Cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 69, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 98, sec. 2, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 5, sec. 7, effective July 14, 2000. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 24, effective May 30, 1997. -- Amended 1994 Ky. Acts ch. 277, sec. 4, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 496, sec. 1, effective July 13, 1990. -- Created 1978 Ky. Acts ch. 110, sec. 10, effective January 1, 1979.

**KRS 45A.080 Competitive sealed bidding.**

- (1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding, which may include the use of a reverse auction, unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include:
  - (a) Whether specifications can be prepared that permit award on the basis of best value; and
  - (b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.
- (2) The invitation for bids shall state that awards shall be made on the basis of best value. In any contract which is awarded under an invitation to bid which requires delivery by a specified date and imposes a penalty for late delivery, if the delivery is late, the contractor shall be given the opportunity to present evidence that the cause of the delay was beyond his control. If it is the opinion of the purchasing officer that there is sufficient justification for delayed delivery, the purchasing officer may adjust or waive any penalty that is provided for in the contract.
- (3) Adequate public notice of the invitation for bids and any reverse auction shall be given a sufficient time prior to the date set forth for the opening of bids or beginning of the reverse auction. The notice may include posting on the Internet or publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet not less than seven (7) days before the date set for the opening of the bids and any reverse auction. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.
- (4) Bids shall be opened publicly or entered through a reverse auction at the time and place designated in the invitation for bids. At the time the bids are opened, or the reverse auction has ended, the purchasing agency shall announce the agency's engineer's estimate, if applicable, and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each written or reverse auction bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.
- (5) The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value.
- (6) Correction or withdrawal of written or reverse auction bids shall be allowed only to the extent permitted by regulations issued by the secretary.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 63, sec. 3, effective July 15, 2010. -- Amended 2000 Ky. Acts ch. 509, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 120, sec. 10, effective July 15, 1998. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 27, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 60, sec. 2, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 278, sec. 1, effective July 15,

1994. -- Amended 1982 Ky. Acts ch. 282, sec. 1, effective July 15, 1982. -- Amended 1979 (1st Extra. Sess.) Ky. Acts ch. 9, sec. 1, effective February 10, 1979. -- Created 1978 Ky. Acts ch. 110, sec. 17, effective January 1, 1979.

**Legislative Research Commission Note** (10/19/2004). 2004 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 2, provides, "Notwithstanding KRS 18A.225, 45A.022, 45A.080, 45A.085, 45A.090, 45A.225 to 45A.290, or any other provision of KRS Chapter 45A to the contrary, retroactive to August 12, 2004, the Finance and Administration Cabinet shall implement the provisions of this Act by amending the previously negotiated contracts for public employee health insurance. The secretary of the Finance and Administration Cabinet shall provide an actuarial certification that the self-insured contract amounts are actuarially sound. Any contracts entered into or modified pursuant to this section shall be forwarded to the Legislative Research Commission."

**KRS 48.710 Road fund -- Surplus fund account.**

There is hereby created in the road fund of the State Treasury a surplus fund account subject to the following terms and conditions:

- (1) It shall contain all surplus tax receipts accruing to the road fund as provided by KRS 48.140(3);
- (2) It shall contain all funds lapsed from moneys originating from road fund receipts;
- (3) It shall contain all receipts from the sale of surplus property purchased with road fund receipts;
- (4) It shall contain all road fund receipts in excess of estimates;
- (5) It shall contain all moneys saved as a result of a reorganization of state government operations funded by the road fund;
- (6) Funds in the account shall be invested at interest and the interest shall also accrue to this account;
- (7) It shall contain any other funds which are required by law or regulation to accrue to the surplus account of the road fund; and
- (8) No expenditures shall be made from this account unless appropriated by the General Assembly or unless required by budget reduction provisions of a branch budget bill, or as provided by KRS 48.130.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 78, sec. 18, effective June 25, 2009. -- Amended 1990 Ky. Acts ch. 507, sec. 18, effective July 13, 1990. -- Created 1982 Ky. Acts ch. 440, sec. 29, effective July 1, 1983.

**2016-2018 Budget Reference.** See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. IX at 1138.

**KRS 416.670 Limitations on condemnation powers -- Rights of current landowner.**

- (1) Development shall be started on any property which has been acquired through condemnation within a period of eight (8) years from the date of the deed to the condemnor or the date on which the condemnor took possession, whichever is earlier, for the purpose for which it was condemned. The failure of the condemnor to so begin development shall entitle the current landowner to repurchase the property at the price the condemnor paid to the landowner for the property. The current owner of the land from which the condemned land was taken may reacquire the land as aforementioned.
- (2) Any condemnor who fails to develop property acquired by condemnation or who fails to begin design on highway projects pursuant to KRS Chapter 177 within a period of eight (8) years after acquisition, shall notify the current landowner of the provisions of subsection (1) of this section. If the current landowner refuses to purchase property described in this section, public notice shall be given in a manner prescribed in KRS Chapter 424 within thirty (30) days of the refusal, and the property shall be sold at auction. Provided, however, that this section shall not apply to property acquired for purposes of industrial development pursuant to KRS Chapter 152.
- (3) If there are two (2) or more current owners of the land from which the condemned land was taken because the remaining land was subdivided, and if they have a common boundary with the condemned land, the condemned land shall be reacquired by allowing all owners of a parcel of the remaining land with a common boundary and from which the condemned land was taken to offer sealed bids for the condemned land within thirty (30) days of notification by the condemnor. The condemnor shall accept the highest and best sealed bid equal to or greater than the price paid at the time of condemnation. If there are no sealed bids or if all sealed bids are below the original price paid by the condemnor for the property, the property shall be sold at auction.

**Effective:** July 15, 1980

**History:** Amended 1980 Ky. Acts ch. 231, sec. 1, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 117, effective June 17, 1978. -- Created 1976 Ky. Acts ch. 140, sec. 15.



## **200 KAR 5:306. Competitive sealed bidding.**

RELATES TO: KRS 45A.080

STATUTORY AUTHORITY: KRS 45A.035, 45A.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 45A.035 authorizes the Secretary of the Finance and Administration Cabinet to promulgate administrative regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This administrative regulation implements KRS 45A.080.

Section 1. (1) The purchasing agencies of the Commonwealth shall provide adequate public notice of solicitations pursuant to KRS 45A.080(3).

(2) In addition to any other public notice given pursuant to KRS 45A.080(3), solicitations shall be posted to the Finance and Administration Cabinet's procurement website.

Section 2. The purchasing officer or other employee of the purchasing agency designated to open the bids shall determine when the time set for opening bids has arrived and shall so declare the time to those present for the bid opening. The purchasing officer or designee shall, in the presence of all persons in attendance, open all bids received as of that date and hour. If practical, the names of the bidders and the amounts of their bids may be read aloud to the persons present. Except if it is deemed impractical, due to the nature or complexity of a solicitation, a bid tabulation summary sheet shall be prepared for each solicitation recording the name of each bidder, a description of the supplies or services bid, and the amounts of the bids received. The bid tabulation summary sheet shall be permanently retained in the solicitation file and shall be available for public inspection. Inspection of bids by interested persons shall not be permitted during the formal bid opening process.

Section 3. The bids shall be examined by the purchasing officer responsible for the procurement for any clerical or technical errors, reviewed for technical compliance with the terms of the solicitation, and the supplies or services bid evaluated for conformity with the specifications contained in the solicitation. A bidder shall, if requested by the purchasing officer responsible for the procurement, clarify, in the format specified by the purchasing officer, any matter contained in the submitted bid about which the purchasing officer has question or believes in good faith needs to be clarified. The bid of any bidder who fails or refuses, within a reasonable time, to give a clarification, if requested to do so by the purchasing officer, shall not be considered further for an award on the basis of that solicitation. The clarification shall be incorporated in any contract awarded on the basis of that bid. After a reasonable bid evaluation period, the contract shall be awarded to the responsive and responsible bidder whose bid offers the best value to the Commonwealth. After evaluation of the bids, including consideration of any clarifying information submitted, the purchasing officer may determine that no satisfactory bid has been received and all bids may be disqualified. At the discretion of the purchasing officer, the solicitation may be cancelled and new bids solicited on the basis of the same or revised specifications, or competitive negotiations undertaken for the procurement. The basis for the disqualification of all bids and subsequent action taken or to be taken with respect to the solicitation shall be recorded and filed in the solicitation file relating to the procurement.

Section 4. (1) The right to disqualify any bid and to waive technicalities and minor irregularities in bids shall be preserved in the case of all solicitations issued by purchasing agencies within the Finance and Administration Cabinet or pursuant to delegations of purchasing authority by the Finance and Administration Cabinet.

(2) Grounds for the disqualification of bids include:

(a) Failure of a bid to conform to the essential requirements of a solicitation.

(b) Failure to conform to the specifications contained or referenced in a solicitation, unless the solicitation authorized the submission of alternate bids and the items offered as alternatives meet the requirements specified in the solicitation.

(c) Failure to conform to a delivery schedule established in a solicitation.

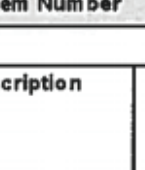
(d) Imposition of conditions which modify the terms and conditions of the solicitation, or limit the

bidder's liability to the state on the contract awarded on the basis of a solicitation.

- (e) Submission of an unreasonable price. Any determination by the purchasing officer that a bid is unreasonable as to price shall be documented.
- (f) Nonresponsibility of a bidder.
- (g) Failure to furnish a bid guarantee if required by a solicitation.
- (h) Other cause as documented by the purchasing officer in a determination and finding.
- (3) Technicalities or minor irregularities in bids, which may be waived if the purchasing officer determines that it will be in the Commonwealth's best interest to do so, are mere matters of form not affecting the material substance of a bid or an immaterial deviation from or variation in the precise requirements of the solicitation having no or a trivial or negligible effect on price, quality, quantity, delivery of supplies, or performance of the services being procured, the correction or waiver of which will not affect the relative standing of, or be otherwise prejudicial to other bidders. The purchasing officer may give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in a bid, or waive the deficiency if it is advantageous to the Commonwealth to do so.

Section 5. If a mistake in a bid is claimed, and the purchasing officer determines that a material mistake was made in the bid and that due to this mistake, the bid submitted was not the bid intended, the bidder shall be permitted to withdraw the bid. If a mistake in a bid is claimed after the award and execution of a contract, the contractor shall be required to perform according to the terms and conditions of the contract, unless it is determined in writing by the Finance and Administration Cabinet that a material mistake had been made in the original bid and the contractor will sustain a financial loss if required to perform the contract according to its terms. A reduction or diminution in profit margin shall not be deemed a financial loss under this section. If it is determined that a material mistake has been made in a bid after the award of a contract, and the contractor will sustain a financial loss if required to perform the contract, the contract shall be rescinded and the contractor shall be ineligible to submit a bid upon resolicitation for the commodity or service. (5 Ky.R. 573; Am. 946; eff. 7-17-79; 18 Ky.R. 1357; 2201; eff. 1-10-92; 23 Ky.R. 1405; 1925; eff. 11-11-96; 24 Ky.R. 929; eff. 12-15-97; 30 Ky.R. 672; 1462; eff. 1-5-2004.)

**KYTC Form TC 62-85 *Notice of Excess Purchase***

 <div style="display: inline-block; vertical-align: middle; text-align: center;">             Kentucky Transportation Cabinet              Division of Right of Way and Utilities           </div> <div style="display: inline-block; vertical-align: middle; text-align: right;"> <b>TC 62-85</b>  <b>Rev. 4/11</b> </div>			
Acquisition - Notice of Excess Purchase			
Item Number	Parcel No.	Project Number	County
Project Description			
Purchase Date	Grantors	Date of Deed	Deed book/Page
	Area Taken and Type	Amount of Excess Appraisal	
Fee Simple Excess			
	From Station	To Station	
Location			
POSSIBLE USE			
REMARKS			
Right of Way Supervisor Signature			

# KYTC Form TC 62-209 *Payment Summary*



KENTUCKY TRANSPORTATION CABINET  
Department of Highways  
DIVISION OF RIGHT OF WAY & UTILITIES

TC 62-209  
Rev. 07/2015  
Page 1 of 1

## PAYMENT SUMMARY

COUNTY			ITEM NO.		PARCEL	NAME			SS / TAX ID NO.		
FUND	DEPT	UNIT	LOCATION DISTRICT	FUNCTION	SUB FUNC COUNTY CODE	PROGRAM	FEDERAL NUMBER	STATE EMP?	OWNER	TENANT	
	625	2800						<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/>	<input type="checkbox"/>	
PROJECT							Make Check Payable To: (name, address, zip code, and phone #)				
INVOICE NO.			CHECK NO.			CHECK DATE					
CHECK DELIVERED BY			DATE			Vendor No.					
						<input type="checkbox"/> SEE MEMO OF UNDERSTANDING					
MAIL CHECK TO:			DISTRICT			CONSULTANT					
ACQUISITION			Amount	Termini	Object	NON TAXABLE			Amount	Termini	Object
Approved Appraisal						Tax Reimbursements				TAXX	E365
Approved MAR						Mortgage Release Fees				MRXX	E365
Adm. Settlement (Explain)						For Reimbursements				INXX	E365
Consideration on Deed				DEXX	E794	Recording Fees				DTFX	E382
Temporary Easement Only				TEXX	E221	Damage Claims				DAXX	E401
Credits (Explain)						Other (Explain):					
Amount of Check											
AV of Excess Taking				EXXX	E794	MISCELLANEOUS			Amount	Termini	Object
Bill FHWA						Graves				GRPX	E791
TAXABLE			Amount	Termini	Object	Under Contract					
Miscellaneous - Taxable				INXX	E791	Other (Explain):					
Gas Well				GWXX	E791						
Protective Leasing				RENX	E221						
Local Public Agency Projects				LPAX	E794						
Explanation/Special Instructions:											
						FOR CENTRAL OFFICE USE					
Right of Way Agent						DATE					
Project Manager						DATE					
Right of Way Supervisor						DATE					
						APPROVED BY: CENTRAL OFFICE					
						DATE					

# KYTC Form TC 62-7 Checklist for Disposal of Surplus Property



KENTUCKY TRANSPORTATION CABINET  
Department of Highways  
DIVISION OF RIGHT OF WAY & UTILITIES

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## CHECKLIST FOR DISPOSAL OF SURPLUS PROPERTY

COUNTY	_____	ITEM #	_____
PROJECT #	_____	FED #	_____
PROJECT	_____		
PARCELS	_____		
30-Day Review Period Expires: _____			
<b>SURPLUS PROPERTY COMMENTS: PROJECT DEVELOPMENT</b>			
		Comments	
		District	C.O.
1.	Is the property located adjacent to a project in the design or planning stage? If so, Will this property be needed for right of way? Should it be utilized as a waste or borrow area? Will it be needed for detour or temporary access purposes?		
2.	Could the property be used for a needed roadway facility? (rest area, roadside park, weigh station, etc.)		
3.	If the property is located at an intersection, should the property be retained for future enlargement of the intersection for traffic operational purposes?		
4.	Based on land use observations, can we anticipate that the disposal and subsequent development of this property will create an undesirable development?		
5.	Is there a probability that the roadway adjacent to this property will be widened or reconstructed in the future? If so, will this property be utilized?		
6.	Could disposal and subsequent developments cause changes in the drainage pattern that would adversely affect the road or the surrounding areas?		
7.	Would any or all of this property be needed to meet "Roadside Design Guide" requirements?		
8.	The property reviewed for this application appears to be surplus to the needs of the KYTC.		
<u>COMMENTS</u>			
District Project Development Engineer:			
Central Office Highway Design:			
TEBM for Project Development		Central Office Highway Design	
Date _____		Date _____	





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**CHECKLIST FOR DISPOSAL OF SURPLUS PROPERTY**

COUNTY _____	ITEM # _____
PROJECT # _____	FED # _____
PROJECT _____	
PARCELS _____	
<b>30-Day Review Period Expires:</b> _____	
<b>SURPLUS PROPERTY COMMENTS: PROJECT DELIVERY &amp; PRESERVATION</b>	
	Comments
	District      C.O.
1. Is any or all of the property presently needed for proper maintenance of the roadway appurtenances? (i.e., drainage ditches, scenic enhancement, waste or borrow area)	
2. Is any or all of the property needed for access to work areas of the department or other governmental agencies? (i.e., drainage ditches, bridge substructures, signs, mowing areas, stream gauges, etc.)	
3. Could the property be utilized to satisfy needs for a department building of the non-roadway category? (Maintenance, traffic, equipment, etc.)	
4. Could the property be used for needed expansion of another existing roadway facility?	
5. Will the development of the property require undesirable access to the adjacent roadway?	
6. Does the property or any part thereof presently serve as a scenic buffer zone isolating the roadway from nearby undesirable development? Should the property or any part thereof be developed as a scenic buffer zone to isolate the roadway from present or anticipated undesirable development?	
7. Could the property be used for a needed roadway facility? (Rest area, roadside park, weigh station, etc.)	
8. Would any or all of this property be needed to meet "Roadside Design Guide" requirements?	
9. The property reviewed for this application appears to be surplus to the needs of the KYTC.	
<b><u>COMMENTS</u></b>	
District Project Delivery & Preservation:	
Central Office Operations:	
TEBM for Project Delivery & Preservation	Date
Central Office Operations	Date




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**CHECKLIST FOR DISPOSAL OF SURPLUS PROPERTY**

COUNTY _____	ITEM # _____		
PROJECT # _____	FED # _____		
PROJECT _____			
PARCELS _____			
<b>30-Day Review Period Expires:</b> _____			
<b>SURPLUS PROPERTY COMMENTS: ENGINEERING SUPPORT</b>			
		Comments	
		District	C.O.
1.	Could the property be used to satisfy needs for a department service building or structure? (Maintenance, traffic, equipment, etc.)		
2.	Will the disposal and subsequent development of this property create a possible sight distance restriction? (Particular emphasis at intersections)		
3.	If the property is located at an intersection, should the property be retained for future enlargement of the intersection for traffic operational purposes?		
4.	Will the development of the property require undesirable access to the adjacent roadway?		
5.	Would any or all of this property be needed to meet "Roadside Design Guide" requirements?		
6.	If disposal is not approved, could the area be airspaced?		
7.	Will disposal infringe on the rights of the adjacent property owner(s)?		
8.	Could the area be used for a Park & Ride lot?		
9.	Are utilities present on the area?		
10.	Could the area be used for a service or rest area or other motorist accommodation facility?		
11.	Is there an encroachment permit application pending or an approved permit associated with this area?		
12.	If right of way is Limited Access, does a "window" for safe access exist?		
13.	The property reviewed for this application appears to be surplus to the needs of the KYTC.		
<b>COMMENTS</b>			
District Engineering Support Branch:			
Central Office Permits:			
TEBM for Engineering Support _____		Central Office Permits _____	
Date _____		Date _____	

**KYTC Form TC 62-8 *Application to Purchase State Right of Way***

	<p>KENTUCKY TRANSPORTATION CABINET Department of Highways DIVISION OF RIGHT OF WAY AND UTILITIES</p>	<p>TC 62-8 Rev. 09/2014 Page 1 of 3</p>
<b>APPLICATION TO PURCHASE STATE RIGHT OF WAY</b>		
<b>INSTRUCTIONS:</b>		
<p>A. The Applicant is required to provide, at his expense, the following attachments to this Application to Purchase State Right of Way.</p> <ol style="list-style-type: none"><li>1. A copy of the Applicant's deed to the property fronting and adjacent to the application area.</li><li>2. A copy of the Commonwealth's deed to the right of way requested.</li><li>3. A typed bearing and distance legal description of the application area to be submitted in both hardcopy and electronic Word format.</li><li>4. Seven (7) stamped/signed copies of a land surveyor's plat, 8 1/2" x 14" in size, showing the application area along with the applicant's adjacent property lines to establish that the applicant is the fronting adjacent property owner. The plat is to meet the minimum standards as per the attached sample plat and requirements. All survey work shall be staked in the field.</li><li>5. Sufficient color photographs to show the entire application area. Transportation Cabinet personnel will use these photographs to establish the condition of the application area at the time of your application to purchase state right of way, should you make improvements to the application area by means of an approved encroachment permit prior to preparation of an appraisal report.</li><li>6. Seven (7) sets of highway plan and profile sheets with the application area marked in red.</li><li>7. A copy of your application for an encroachment permit if application has been made, and a copy of any approved permit issued as a result of your application.</li><li>8. Seven (7) sets of site plans if development on the application area and/or the adjacent property will effect or alter the present topography, drainage or access points. The site plan may be substituted by submitting Transportation Cabinet Form TC 99-1(A), "Application for Encroachment Permit".</li><li>9. Five (5) copies of an appraisal report prepared by an appraiser that has been prequalified by the Transportation Cabinet. <b>DO NOT</b> have the appraisal prepared until the Cabinet tentatively approves your request to purchase state right of way. The appraisal is to establish the contributory and entity value of the application area. The appraisal report must be accompanied by an Appraisal Summary Sheet approved by the KYTC Appraisal Branch Manager.</li></ol> <p>B. The application area will be appraised as to its entity value and its contributory value to the adjacent property, as outlined in the Cabinet's <i>Right of Way Guidance Manual</i>. You will be required to pay the higher of the two values.</p> <p>C. Should you make any improvement to the application area prior to the date of the application, then these improvements will be reflected into the appraisal report.</p> <p>D. Improvements made to the application area by means of an approved permit after the approval date of the permit but prior to the appraisal report, will not be taken into consideration in establishing the appraised value. For appraisal purposes, the condition of the application area shall be established by the photographs cited in Item D of these instructions along with information contained in an approved encroachment permit.</p> <p>E. Upon notification of the approved appraised value, you must within thirty (30) days submit a 20% of total value Good Faith Deposit and a signed Purchase Agreement to the Division of Right of Way and Utilities. Said deposit will be forfeited as liquidated damages if you fail or refuse to purchase the property within thirty (30) days written notice from the Cabinet.</p> <p>F. All applications to purchase state right of way must be reviewed and approved by the District Office, Central Office and either the Federal Highway Administration or the Turnpike Authority of Kentucky, whichever is applicable.</p> <p>G. All sales of state-owned right of way are subject to approval of the Secretary of the Finance and Administration Cabinet and the Governor, pursuant to KRS 45A.</p> <p>H. All payments, including administrative fees and purchase consideration must be in the form of a Certified Check, a Cashier's Check or Money Order made payable to the Kentucky State Treasurer.</p>		



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APPLICATION TO PURCHASE STATE RIGHT OF WAY

SECTION 1: APPLICANT INFORMATION

NAME	EMAIL	PHONE
<input type="text"/>	<input type="text"/>	<input type="text"/>
ADDRESS	CITY	STATE ZIP
<input type="text"/>	<input type="text"/>	<input type="text"/>
Are you a state employee? <input type="checkbox"/> Yes <input type="checkbox"/> No		

If the applicant is a legal entity, who will sign on their behalf?

NAME	TITLE
<input type="text"/>	<input type="text"/>

ADDITIONAL INFORMATION TO BE COMPLETED BY APPLICANT

LOCATION OF THE PROPERTY DESIRED

INTENDED USE OF PROPERTY	<input type="checkbox"/> Commercial	<input type="checkbox"/> Industrial	<input type="checkbox"/> Residential	<input type="checkbox"/> Agricultural
<input type="checkbox"/> Other (Specify) <input type="text"/>				

1. I certify I am the fronting adjacent property owner to the property herein requested; and that I acquired title to the adjacent property by deed dated  recorded in Deed Book  Page

2. Have you applied for or do you intend to apply for an encroachment permit? ☐ Yes ☐ No

3. Do you intend to begin work prior to completion of the appraisal? ☐ Yes ☐ No

ATTACHMENTS TO BE PROVIDED BY APPLICANT

- ☐ Copy of the deed referenced in question 1 ☐ Copy of the Commonwealth's deed to the right of way requested
- ☐ Typed legal description of the application area submitted in hardcopy and in electronic Word format
- ☐ 7 stamped and signed copies of a land surveyor's plat, 8 1/2" x 14" in size, showing application area and applicant's property lines (All surveying work must be staked in the field.)
- ☐ Sufficient color photos to show the entire application area
- ☐ Copy of the permit application referenced in question 2 (required only if Yes is checked)
- ☐ 7 sets of site plans depicting the application area and/or the adjacent property on which development will affect or alter the present topography, drainage, or access points. Transportation Cabinet form TC 99-1A "Application for Encroachment Permit" may be substituted.
- ☐ 7 sets of plan and profile sheets with the application area marked in red

I understand and agree that the required appraisal of the requested property will be prepared at my expense by an appraiser that has been pre-qualified by the Transportation Cabinet and I hereby release the contents of any appraisal to the Transportation Cabinet for review, and also allow direct contact between the appraiser and the Cabinet regarding the contents and conclusions of the appraisal.

I further agree and understand that all right of way markers and right of way fencing will be replaced or relocated at my expense.

I have read and accept all the requirements and conditions herein as my part of my application to purchase state-owned right of way and agree that I am bound by the same. I am not relying on any statements, verbal or otherwise, not contained herein.

SIGNATURE (Applicant)

DATE



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**APPLICATION TO PURCHASE STATE RIGHT OF WAY**

**SECTION 2: PROJECT IDENTIFICATION** *(To be completed by District Property Management Agent)*

**INSTRUCTIONS:** Review application and attachments. Complete form TC 62-222, *District Checklist for Surplus Property Disposal*. Prior to valuation authorization, forward the completed application packet to Central Office for review.

<b>COUNTY</b> [ ]	<b>ITEM #</b> [ ]	<b>STATE #</b> [ ]
<b>FEDERAL #</b> [ ]		<b>ROAD</b> [ ]
<b>PARCEL</b> [ ]		<b>ACCESS CONTROL</b> <input type="checkbox"/> By Permit   <input type="checkbox"/> Partial   <input type="checkbox"/> Full

**SECTION 3: ACQUISITION INFORMATION & APPROVAL** *(To be completed by District Right of Way Section)*

**NOTE:** All blanks must be completed or marked as not applicable.

<b>ACQUISITION COST</b> [ ]	<input type="checkbox"/> Per Acre	<input type="checkbox"/> Per Sq. Ft.	[ ]
--------------------------------	-----------------------------------	--------------------------------------	-----


<b>REASON ACQUIRED</b> [ ]
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<b>REASON NO LONGER REQUIRED</b> [ ]
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<b>APPROVAL SIGNATURE</b> <i>(Chief District Engineer)</i>	<b>DATE</b>
--	-------------



**KYTC Form TC 58-47 *Surplus Property- Notification of Environmental Conditions***

		KENTUCKY TRANSPORTATION CABINET Department of Highways DIVISION OF ENVIRONMENTAL ANALYSIS	TC 58-47 Rev. 01/2014 Page 1 of 1
<b>SURPLUS PROPERTY – NOTIFICATION OF ENVIRONMENTAL CONDITIONS</b>			
<b>COUNTY</b> [ ]		<b>PARCEL</b> [ ]	
<b>LOCATION</b> [ ]			
<input type="checkbox"/>	The proposed land use may not be compatible with local zoning ordinances.		
<input type="checkbox"/>	The parcel to be sold includes, or may include, an archaeological site eligible for the National Register of Historic Places. The applicant/proposed owner should contact the Kentucky Heritage Council before conducting any earthmoving activities on this parcel.		
<input type="checkbox"/>	The parcel includes streams, tributaries or wetland areas that may require permitting from the U.S. Army Corps of Engineers and/or the Kentucky Division of Water prior to disturbance. The applicant/proposed owner should contact these agencies prior to conducting any earthmoving activities on this parcel.		
<input type="checkbox"/>	The parcel to be sold includes habitat suitable for species on the Threatened or Endangered Species list maintained by the United States Fish and Wildlife Service. The applicant/proposed owner should contact the U.S. Fish and Wildlife Service before conducting any earthmoving, clearing or other activities on this parcel that might potentially cause the intentional or inadvertent "taking" of an endangered species. Such actions are contrary to law and subject to penalty including fines and/or imprisonment.		
<input type="checkbox"/>	The parcel to be sold includes locations where activities were or may have been conducted, that could have resulted in the contamination of the property. The applicant may need to consult with a professional, and appropriate state and federal agencies, regarding proper safety measures, clean-up standards, etc. if ground disturbing activities are planned.		
<b>COMMENTS</b> [ ]			
<b>SIGNATURE</b>		<b>DATE</b>	
[ ]			

**KYTC Form TC 58-46 *Categorical Exclusion Impact Summary Sheet***



KENTUCKY TRANSPORTATION CABINET

Department of Highways

**DIVISION OF ENVIRONMENTAL ANALYSIS**

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**SURPLUS PROPERTY CATEGORICAL EXCLUSION IMPACT SUMMARY SHEET**

**I. PROJECT IDENTIFICATION**

A. Route: \_\_\_\_\_ Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_  
 B. County: \_\_\_\_\_ C. Item No: \_\_\_\_\_  
 D. Description: \_\_\_\_\_  
 1 Existing Conditions: \_\_\_\_\_  
 2 Proposed Use: \_\_\_\_\_

**II. IMPACT EVALUATION**

	Direct			Indirect/Cumul			COMMENTS
	SIG	MIN	NONE	SIG	MIN	NONE	
A. Land Use Changes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
B. 4(f) Lands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1 Historic Site/District effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2 Archaeological site effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3 Public recreation effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4 Wildlife/waterfowl refuge effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
C. Wetlands effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
D. Floodplain effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
E. Endangered Species/Habit effects	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
F. Water Quality impacts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
G. 401/404 permits	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
H. Hazmat/UST issues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
I. Other issues (discuss):							

**III. RECOMMENDATIONS/CONDITIONS/COMMENTS:**

APPROVED:

\_\_\_\_\_  
 District Environmental Coordinator Date

APPROVED:

\_\_\_\_\_  
 District Right of Way Agent Date

cc: Division of Environmental Analysis  
 FHWA

# **KYTC Form TC 62-9 Purchase Agreement Public Sale**



KENTUCKY TRANSPORTATION CABINET  
Department of Highways  
DIVISION OF RIGHT OF WAY & UTILITIES

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## **PURCHASE AGREEMENT PUBLIC SALE**

COUNTY		ITEM #	
PROJECT #			
FEDERAL #			
PROJECT			
PARCEL #			

I, \_\_\_\_\_ hereinafter referred to as the Purchaser, do hereby agree to pay the sum of \$ \_\_\_\_\_ to the Commonwealth of Kentucky, Transportation Cabinet, hereinafter referred to as the seller, for the following described property.

Parcel (Insert Deed Description)
<div></div>

As required by the terms of this sale a good faith deposit is hereby made in the amount of **\$0.00** to be held in a special deposit trust fund by the Transportation Cabinet Division of Right of Way & Utilities pending the arrangement of a closing date at which time upon delivery of the deed the balance of \$ \_\_\_\_\_ will be due and payable. The conveyance will be by Special Warranty Deed.

The Purchaser agrees that the above mentioned good faith deposit will be forfeited to the Seller as liquidated damages is the Purchaser fails to consummate this sales transaction as agreed herein.

The Purchaser understands that this sale is subject to the approval of the Secretary of the Finance and Administration Cabinet, Commonwealth of Kentucky, pursuant to KRS 45A.

**SELLER SHALL CONVEY THE PROPERTY TO PURCHASER ON THE CLOSING DATE IN THE SAME PHYSICAL CONDITION AS THE PROPERTY IS ON THE EFFECTIVE DATE OF THIS CONTRACT, ORDINARY WEAR AND TEAR ACCEPTED.**

The Purchaser and its representatives shall have the right to enter upon the property for the purpose of conducting surveys and such other examinations and inspections of the property as the Purchaser may reasonably desire prior to the closing, provided, however, that the discovery of any objectionable condition on or with respect to the property shall not give the Purchaser any right to require the Seller to take any corrective action with respect to such condition. Excluding any damage, liabilities, loss, cost or expense resulting from Seller's negligence or misconduct, the Purchaser shall repair any and all damage caused by such surveys, examinations and inspections. In the exercise of its rights pursuant to this paragraph, the Purchaser shall not interfere with the conduct of the Seller's activities on or with respect to the property and shall give Seller reasonable advance notice of any surveys, examinations and inspections the Purchaser intends to conduct on or with respect to the property. Such notice shall contain the date and time the Purchaser intends to conduct such activities and description of the nature of the activities. Seller shall be entitled to have representatives throughout such activities.



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**PURCHASE AGREEMENT PUBLIC SALE**

The Purchaser herein accepts all environmental liabilities associated with the herein described property. The Purchaser further agrees to indemnify and defend the Seller and hold the Seller harmless from any and all environmental losses, expenses, liabilities, claims, damages, deficiencies and costs, including without limitation, court costs and reasonable attorney's fees, and expenses now hereafter incurred by the Purchaser arising out of due to or with respect to the herein described property.

The Purchaser understands that the erection of off-premise advertising devices, (billboards), upon the above-described property is prohibited.

The Purchaser understands that the conveyance is subject to any and all utility or other easements of record in or upon the above-described property and to any and all rights of others recognized and/or permitted by the Grantor for the presence of utilities, (i.e. electric, gas, water, telephone, cable TV, etc.), in or upon the property, and in respect to such utility rights where no easement exists.

The Purchaser has read the entire contents of this contract and is not relying on any verbal statements not contained herein. The Purchaser has examined the property described above and accepts its conditions as is, including but not limited to structures, improvements, existing easements, access, zoning uses and other regulations that may be applicable to its use.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by,

\_\_\_\_\_  
Purchaser Signature

\_\_\_\_\_  
Address

-----  
This Purchase Agreement was signed in my presence  
on the date indicated, and I have received from the  
Purchaser a good faith deposit in the amount of:

\$ \_\_\_\_\_

\_\_\_\_\_  
Designated Representative Signature  
Kentucky Transportation Cabinet

**DEED INFORMATION**

Name(s) \_\_\_\_\_

Phone \_\_\_\_\_

Address \_\_\_\_\_

Survivorship Clause ☐ Yes ☐ No

**If applicant is legal entity, the following person(s) have authority to sign on its behalf:**

Name(s) \_\_\_\_\_

Title \_\_\_\_\_

**KYTC Form TC 62-6 *Invitation for Bids: Sale of Excess/Surplus Property***



KENTUCKY TRANSPORTATION CABINET  
Department of Highways  
DIVISION OF RIGHT OF WAY & UTILITIES

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**INVITATION FOR BIDS: SALE OF EXCESS/SURPLUS PROPERTY**

COUNTY	ITEM #	PROJECT #	FEDERAL PROJECT #
PROJECT			PARCEL #

**FOR SALE: STATE OWNED PROPERTY**

[Insert Description]

Return Address: \_\_\_\_\_ Business Hours: 8:00 am -- 4:30 pm

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bid Invitation #	Date Invitation Issued	Bid Closing Date	Bid Closing Time

☐ EST ☐ EDT

For information call: \_\_\_\_\_ Telephone Numbers: \_\_\_\_\_ Voice

Email:

Sealed bids for sale of state-owned real estate will be received and opened at the place, date and time shown above. The property being offered for sale is described separately on the attached Form of Proposal and plat.

ADDENDUM TO THIS INVITATION FOR BIDS	
No.	Description
1	Terms of Sale: See terms on back of this sheet
2	Form of Proposal: Sealed Bid
3	Plat of the property offered for sale: Attached

**INSTRUCTIONS TO BIDDERS**

1. Bids must be submitted on the "Form of Proposal" included with and made a part of this invitation
2. Bids must be received in sealed, pre-addressed envelope no later than the date and time shown above.
3. You may hand-deliver your bid or return by regular mail or parcel service. Electronic submission of bids will not be accepted.
4. The Commonwealth of Kentucky reserves the unqualified right to reject any or all bids.
5. Bidders are invited to attend the bid opening.





## INVITATION FOR BIDS: SALE OF EXCESS/SURPLUS PROPERTY

### TERMS OF SALE

As a guarantee of good faith, each bid must be accompanied by a certified check, cashier' check, or money order made payable to the *Kentucky State Treasurer* in an amount no less than twenty percent (20%) of the total amount bid. Cash will not be accepted.

The good faith deposit of all unsuccessful bidders will be returned by mail as soon as possible after bids have been opened and the property has been awarded. The deposits of all bidders will be returned if all bids are rejected.

The Cabinet will retain and apply the successful bidder's good faith deposit to the balance of the purchase price. The successful bidder must pay the balance of the purchase price at the time of delivery of the deed. Payment of balance due must be in the form of a certified check, cashier's check, or money order made payable to the *Kentucky State Treasurer*. The successful bidder's good faith deposit will be forfeited to the Commonwealth of Kentucky as liquidated damages if the successful bidder fails or refuses to purchase the property after the property has been awarded.

Prior to submitting a bid prospective bidders are responsible for inspecting and investigating this real estate to determine pertinent factors such as access, zoning, easements, condition, etc. No refund or adjustment will be made because the property fails to meet standards of quality or conditions. Failure to inspect the property will not be grounds for any claim for relief.

Bidders and their representative shall have the right to enter upon the property to conduct reasonable surveys, examinations and inspections prior to the closing, provided however, that the discovery of any objectionable condition on or with respect to the property shall not give the bidder any right to require the Commonwealth to take any corrective action with respect to such condition. Excluding any damage, liability, loss, cost, or expense resulting from the examinations and inspections. In the exercise of its rights pursuant to this paragraph the bidder shall not interfere with the conduct of the Commonwealth's activities on or with respect to the property and shall give the Commonwealth reasonable advance notice of any surveys, examinations and inspections the bidder intends to conduct. Such notice shall contain the date and time the bidder intends to conduct such activities and a description of the nature of the activities. The Commonwealth shall be entitled to have representatives present throughout such activities.

Possession of the property will be given upon payment in full of the purchase price and delivery of the deed. The property shall be conveyed to the successful bidder on the closing date in the same physical condition as the property is on the effective date of the executed Purchase Agreement, ordinary wear and tear excepted.

A good marketable title to the property will be conveyed by deed containing covenant of special warranty, and unless specifically provided otherwise, subject to existing laws and regulations regarding use of the property.

After the full consideration is received for the property, the deed of conveyance will be recorded and the original deed will be provided to the successful bidder.

The successful bidder or his successor in title will be responsible for payment of all taxes due on the property after delivery of the deed.

**Bids submitted electronically will not be accepted.**

If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirements 48 hours before the scheduled bid opening.

---

#### A BID WILL BE CONSIDERED VALID ONLY WHEN:

1. SUBMITTED ON THE ATTACHED "FORM OF PROPOSAL"
2. PROPERLY COMPLETED AND SIGNED
3. RECEIVED IN THE SEALED ENVELOPE PROVIDED HEREIN
4. DELIVERED TO THE RECEIVER ON OR BEFORE THE DESIGNATED BID OPENING



KENTUCKY TRANSPORTATION CABINET  
Department of Highways  
DIVISION OF RIGHT OF WAY & UTILITIES

TC 62-6  
Rev. 09/2014  
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INVITATION FOR BIDS: SALE OF EXCESS/SURPLUS PROPERTY

FORM OF PROPOSAL (SEALED BID)

Bid Invitation No.	Bid Closing Date	Bid Closing Time
		<input type="checkbox"/> EST <input type="checkbox"/> EDT

I, the bidder, do hereby propose to pay to the Commonwealth of Kentucky a total of \$ \_\_\_\_\_  
for the below-described real estate, subject to the INSTRUCTIONS, TERMS AND CONDITION and  
Authentication of Bid and Affidavit of Non-Collusion and Non-Conflict of Interest. My twenty percent (20%) good faith  
deposit in the amount of \$ \_\_\_\_\_ in enclosed.

PROPERTY DESCRIPTION (See Attached Plat)

AUTHENTICATION OF BID AND AFFIDAVIT OF  
NON-COLLUSION AND NON-CONFLICT OF INTEREST

I, the bidder, certify that:

1. I have independently arrived at and submitted this bid without collusion, agreement, understanding, or planned common course with any other bidder or state employee.
2. I have not and will not communicate the contents of this bid to any person not an employee or agent of the bidder prior to the official bid opening.
3. I am legally entitled to enter into contracts with the Commonwealth of Kentucky and am not in violation of any prohibited conflict of interest.
4. I have fully informed myself regarding the accuracy of the statements made in this affidavit.
5. I have read the entire content of the Invitation for Bids, including the Form of Proposal, Instructions, Terms of Sale, etc.
6. I accept all the terms and conditions herein as part of my bid and I will be bound by the same.
7. I am not relying on any statement, verbal or otherwise, not contained herein.
8. I have examined the property identified in the attached plat and acknowledge its condition.

Should I be the successful bidder, make deed to:

Name \_\_\_\_\_

Name \_\_\_\_\_

☐ With ☐ Without Survivorship Clause

Address \_\_\_\_\_

City \_\_\_\_\_

Phone (     ) \_\_\_\_\_ Tax ID# or SSN \_\_\_\_\_

NOTE: Signature is required. Failure to sign shall render the bid invalid.

Signature \_\_\_\_\_ Date \_\_\_\_\_

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COUNTY \_\_\_\_\_ ITEM NO. \_\_\_\_\_  
 PROJECT NO. \_\_\_\_\_ FED NO. \_\_\_\_\_  
 PROJECT    INVITATION NO. \_\_\_\_\_  
 PREPARED BY \_\_\_\_\_ DATE \_\_\_\_\_

[illegible]

A

## **A REQUEST FOR PROPOSAL FOR PROFESSIONAL SERVICES CONTRACT**

Department of Highways  
Professional Services Procurement Bulletin 201X-XX Statewide Right of Way Disposal of Surplus  
Real Property

This document constitutes a Request for Proposals for Professional Service Contract from qualified individuals and organizations to furnish those services as described herein for the Commonwealth of Kentucky, Department of Highways.

### **I. PROJECT DESCRIPTION**

Consultant services are needed to provide Right of Way Professional Services to assist in inventorying surplus real property owned by the Commonwealth of Kentucky which has been acquired through the Kentucky Transportation Cabinet's (KYTC's) right-of-way acquisition process and creating a comprehensive database with a GIS interface of the surplus property.

### **II. PROJECT INFORMATION**

Project Manager – Ronnie Elmore  
User Division – Division of Right of Way and Utilities  
Approximate Fee – \$500,000  
Project Schedule – Two years  
Contracting Method – Cost Plus a Fixed Fee  
Project Funding – State and Federal Funds

### **III. PURPOSE AND NEED**

The purpose of this contract is to assist the Kentucky Transportation Cabinet in inventorying existing surplus property and in creating a database with a GIS interface of these properties in order to advertise their availability for purchase to the public.

### **IV. DBE REQUIREMENT**

The Consultant team shall include a DBE Participation Plan with their Response to Announcement to help the Department meet FHWA's 11.95% DBE goal. The plan needs to demonstrate how DBE companies will be mentored or used to assist in the area(s) pertaining to this contract. An additional page will be allowed in the Project Approach (Page 7) to demonstrate this plan. A maximum of 4 points will be considered in the Evaluation Factors for the DBE Participation Plan.

## **V. SCOPE OF WORK**

Sometimes after a highway project has been completed, the District and Central Office determine that a portion of the existing right of way can be used more suitably by an adjoining property owner or by another public agency. Before it can be disposed of, the property must be declared surplus to the needs of KYTC. Property declared surplus may be sold by KYTC through standard business practices that render the highest return for the taxpayers of Kentucky.

The selected Consultant for this contract will be responsible for any or all of the following:

1. Inventorying KYTC surplus real property; to include
  - a. Geolocation
  - b. Property depiction from an aerial view
  - c. Generalized property description (including physical location)
  - d. Property photos
  - e. Estimated property value from a market analysis, including comps (not an official appraisal)
2. Creating a surplus property database with a GIS interface; and
3. Making inventory available to the public via web based tool or other means deemed sufficient by KYTC.
4. Maintain inventory of surplus property, the database, and webpage.

The work required by this contract should be staged so that available surplus property is made public via the web as soon as possible. The whole inventory of KYTC surplus property does not need to be complete before groupings of surplus property are advertised. An inventory work plan must be approved by the Project Manager prior to work beginning.

The Right of Way Surplus Property Coordinator will be the Project Manager over this contract, the single point of contact for all services, and will be responsible for resources, assignment of work, managing workload, monitoring schedules and ensure quality of work meets Department expectations and requirements.

The selected Consultant agrees that upon request, they will be available to assist in responding to FHWA or State inquiries or citations.

**Subproviders:** Subproviders providing service under the work authorization shall meet the same requirements and level of experience as required of the respondent. No subcontract shall relieve the primary respondent of responsibility for the service. If the respondent uses a Subprovider for any or all of the work required, the following conditions shall apply under the listed circumstances:

- a) Respondents planning to subcontract all or a portion of the work shall identify the proposed Subproviders.
- b) Subcontracting shall be at the respondent's expense.
- c) KYTC retains the right to check Subprovider's background and make a determination to approve or reject the use of submitted Subproviders.
- d) The respondent shall be the only contact for the Department and Subproviders and shall list a designated point of contact for all Department and Subprovider inquiries.



## **VI. SPECIAL INSTRUCTIONS**

Instructions for Response to Announcement can be found at:

<http://transportation.ky.gov/Professional-Services/Pages/Respond-to-an-Announcement.aspx>

## **VII. PREQUALIFICATION REQUIREMENTS**

To respond to this project, the proposed Consultant must be prequalified for Right of Way Services by the Division of Right of Way and Utilities by the Response Due Date of this Advertisement.

### **RIGHT-OF-WAY SERVICES**

- Right of Way Project Manager

### **HIGHWAY DESIGN**

- Surveying

## **VIII. PROCUREMENT SCHEDULE**

Dates other than Response Date are tentative and provided for information only.

- Bulletin Posted –
- Response Date –
- First Selection –
- Final Selection –
- Scoping Conference –
- Fee Proposal –
- Contract Negotiations –
- Notice to Proceed –

## **IX. PROJECT SCHEDULE**

- Deliver operable Surplus Property Database with GIS Interface and Public Website – Twelve months after Notice to Proceed
- Advertise approximately 50 percent of available Surplus Property via the public website – Twelve months after Notice to Proceed
- COMPLETE ALL SERVICES – Eighteen months after Notice to Proceed
- Maintain Inventory and Database – Twenty-four months after Notice to Proceed

## **X. EVALUATION FACTORS**

Consultants will be evaluated by the selection committee based on the following, weighted factors:

1. Project approach and proposed procedures to accomplish the services for the project. (20 Points)
2. Relative experience of consultant personnel assigned to project team. (15 Points)
3. Consultant's past performance on similar projects. (10 Points)
4. Capacity to comply with project schedule. (15 Points)
5. Organizational structure of team and management approach of project team (15 points)
6. DBE Participation Plan (4 Points)

## **XI. SELECTION COMMITTEE MEMBERS**

1. Ronnie Elmore, User Division
2. Kelly Divine, User Division
3. Secretary's Pool
4. Secretary's Pool
5. Governor's Pool